

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

HYDERABAD BENCH

O.A.No.581/92

Date of Order: 21.9.1992

BETWEEN:

Smt. P.Ruthesthar

.. Applicant.

A N D

1. Union of India, rep. by the
Director General, Telecommunications,
New Delhi.
2. The Chief General Manager
Telecommunications, A.P. Circle,
Hyderabad.
3. The Telecom District Manager,
Kurnool.

.. Respondents.

Counsel for the Applicant

.. Mr.TVVS.Murthy
for
Mr.J.V.Lakshmana Rao
.. Mr.N.R.Devraj, Sr. Asst.

CORAM:

HON'BLE SHRI T.CHANDRASEKHARA REDDY, MEMBER (JUDL.)

(Order of the Single Member Bench delivered by
Hon'ble Shri T.Chandrasekhara Reddy, Member(Judl.)).

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This is an application filed under Section 19 of the Administrative Tribunals Act to direct the respondents to take back the applicant back to service as Casual Mazdoor from the date of her discharge on 29.4.1992 and to pay her backwages for the period from the date of the discharge up to the date of her reinstatement as Casual Mazdoor with all consequential benefits of counting of service etc. and pass such other order or orders as may deem fit and proper in the circumstances of the case.

The facts giving rise to this OA in brief are as follows:

The husband of the applicant is one late Sri P. Bhaskar. The said Sri Bhaskar was originally appointed as Casual Mazdoor w.e.f. 16.11.1983. The said Sri Bhaskar attained temporary status w.e.f. 1.10.1989 in Kurnool Phones Sub-Division. The said Sri P. Bhaskar died on 30.6.1990 while working as temporary mazdoor in Kurnool Phones Sub Division. The applicant herein is the widow of Sri Bhaskar. The said Sri Bhaskar and the applicant herein are blessed with a female child aged about 6 months at the time of his death. ~~OA.~~ The department taking into consideration the distress condition in which the family was placed provided an appointment to the applicant herein on compassionate grounds by ^{taking} ~~counting~~ her as casual mazdoor in the Telephone Revenue Unit of Kurnool w.e.f. 1.8.1991. The applicant has passed S.S.C. examination held in October, 1986. The applicant had ~~in~~ all the required qualifications for ~~having~~ being appointed as the said casual mazdoor. While so the applicant services were terminated w.e.f. 29.4.1992 on the ground that it was not possible to allow the applicant to continue as casual mazdoor in the department as her case did not come under the purview of

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Hyderabad dated 13.3.1992. It is the said order of termination that is question^{ed} in this OA.

The respondents have filed counter opposing the admission of this OA. In the counter filed by the respondents it is maintained that the applicant though appointed as Casual Mazdoor w.e.f. 1.8.1991 her services were terminated as the applicant was not eligible for continuation as per Director General Telephones letter dated 3.1.1992 and hence ~~that~~ were her services were terminated.

Today we have heard Mr.T.V.V.S.Murthy for Mr.J.W.Lakshmana Rao, Advocate for the applicant and Mr.N.R.Devraj, Standing Counsel for the respondents.

For dealing with the question^{ed} controversy at the first instance we may refer to the letter dated 7.5.1991 issued by the Director General of Telephones, New Delhi. The said letter reads as here under:

"That a proposal to grant casual employment to the wards of temporary status Casual Mazdoors who die in harness has been under consideration in this Dept. The matter has been carefully examined and it has been decided that in the cases of 'temporary status casual mazdoors' who die in harness leaving behind their family in indigent condition, the wards (i.e. son, daughter or wife) of such deceased may be given casual employment in relaxation of ban imposed vide 270-6/84 STN dt. 30.3.1985 and 22.6.1988. This will be subject to the condition that ~~some~~ in the family is employed in whatsoever capacity. The casual labourer so appointed will be eligible for conferment of temporary status and regularisation against group 'D' posts as per 'Casual Labourers - Grant of temporary status and regularisation scheme' and orders issued from time to time."

As could be seen from the said letter there was no cut off date mentioned in the said letter for providing any appointment on compassionate grounds to the family of temporary casual mazdoor who had obtained temporary status and who had died

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while in service. It is only basing on this letter dated 7.5.1991 that the applicant had been appointed as casual mazdoor on temporary basis *with effect from 1-8-91*.

Subsequent to letter dated 7.5.1991 a letter had been issued by the same authority (Director General of Telecom) dated 3.1.1992 on the subject of casual employment *with regard to the Wards of deceased temporary status casual mazdoors.* The said letter reads as follows:

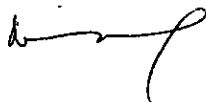
" In continuation of this office circular of even No. dated 7.5.1991 the under-signed is directed to state that the scheme of grant of casual employment to the Ward of deceased temporary status Casual Mazdoors will be implemented with effect from 7.5.1991 only i.e. the date of issuance of those instructions."

As already mentioned while narrating the facts giving rise to this OA ~~that~~ the said Sri P. Bhaskar had died on 30.6.1990. In view of the letter dated 3.1.1992 issued by the Director General of Telecom, the applicant's services were terminated on the ground that the instructions contained in the letter dated 7.5.1991 had ~~no~~ application to the applicant and that the applicant herein was not entitled to the benefit of the instructions contained in the said letter dated 7.5.1991 of the Director General of Telecom, as the applicant's husband had died prior to 7.5.1991.

Admittedly the husband of the applicant had worked as casual mazdoor for a period of 7 years. The applicant's husband had obtained temporary status by the time he had died, is not also in ~~the~~ dispute. The department had come to the opinion that the family of the deceased could not get on unless the family is provided assistance by way of an employment. ^{so} The applicant had been appointed as casual mazdoor on compassionate grounds. At the time the said

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appointment of the applicant was made as casual mazdoor on compassionate grounds, the cut off date had not been mentioned in the letter dated 7.5.91 of the Director General of Telecom for providing appointment on compassionate grounds. As already pointed out, basing on the letter dated 7.5.91 of the Director General of Telecom, the applicant had been appointed on compassionate grounds as casual mazdoor. The applicant after having been appointed as Casual Mazdoor on compassionate grounds, by the time of discharge in the month of April, 1992, had put in more than 9 months of service. As no cut off date had been mentioned for making compassionate appointment in the letter dated 7.5.91 of the Director General of Telecom by any stretch of imagination, it cannot be said that the action of the competent authority in providing appointment to the applicant herein on compassionate grounds is in any way not valid. The action of the competent authority in providing compassionate appointment to the applicant is certainly justified in view of the facts and circumstances of this case as the family was indigent and distress circumstances due to the death of Sri Bhaskar and as the applicant is having a baby aged six months in her arms and left with no properties. Though as per the instructions contained in the letter dated 3.1.92 of the Director General of Telecom., cut off date had been introduced as 7.5.91 for the purpose of providing the said compassionate appointments. We do not see any justification in view of the facts and circumstances of the case in terminating the services of the applicant on the ground that the instructions contained in the said letter dated 7.5.91 of the Director General of Telecom came into effect with effect from 7.5.91 and so, the applicant cannot be allowed to continue as casual mazdoor as the said appointment of the applicant is not valid. The applicant was in service as on 3.1.92 when the said letter dated 3.1.92 containing the instructions that the appointment

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T. Chandrasekhara Reddy
(T. CHANDRASEKHARA REDDY)
Member (Judl.)

2 Dy.Registrar(J)

Copy to:-

1. Director General, Telecommunications, Union of India, New Delhi.
2. The Chief General Manager Telecommunications, A.P.Circle, Hyderabad.
3. The Telecom District Manager, Kurnool.
4. One copy to Sri. J.V.Lakshmana Rao, advocate, Flat No.301, Balaji towers, New Bakram, Hyd.
5. One copy to Sri. N.R.Devaraj, Sr. CGSC, CAT, Hyd.
6. One spare copy.

P. J. B. / J. K. / 13104-

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TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD

THE HON'BLE MR

AND

THE HON'BLE MR. R. BALASUBRAMANIAN: M(A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY:
M(JUDL)

AND

THE HON'BLE MR. C. J. ROY : MEMBER (JUDL)

Dated: 21/4/1992

ORDER/JUDGMENT:

~~R.A./G.A./M.A.No~~

in

O.A.No.

581/92

T.A.No.

(wp.No)

Admitted and interim directions
issued.

O.A. Allowed

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for default

M.A. Ordered/Rejected

No orders as to costs.

pvm

