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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO.1372/93

DATE OF JUDGEMENT: 28-2-1994

Between

P.S.Kumar .. Applicant

and

1. The Asst. Engineer
C.C.III, Construction
NTR Nagar, Kothapet, Hyderabad
2. The Divisional Engineer,
Cable construction
5th Floor, Room No. 510
Taramandal Complex
Secretariat Hyderabad
3. The Chief General Manager
Telecommunications
Doorsanchar Bhavan
Nampally Stn Road, Hyderabad
4. The General Manager
Telecom Distt.
Hyderabad
5. The Director General
Telecommunications
Sanchar Bhavan, New Delhi .. Respondents

Counsel for the Applicant :: Mr K.Venkateshwara Rao

Counsel for the Respondents :: Mr NR Devraj, Sr.CGSC

CORAM:

HON'BLE SHRI A.B. GORTHI, MEMBER(ADMN)

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

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JUDGEMENT

(As per Hon'ble Shri T. Chandrasekhara Reddy, Member(J)

This an application filed under Section 19 of the Administrative Tribunals Act to direct the respondents to condone the break period of the applicant from 1.8.1991 to 25.1.93 after permitting the applicant to join the duty with all consequential benefits and to pass such other order or orders as may deem fit and proper in the circumstances of the case.

2. According to the applicant, he was engaged as casual mazdoor by the respondents in the year 1981. But the respondents deny the same and contend that the applicant had been engaged as casual Mazdoor only from Feb., 1986 and not from 1981 as claimed by him. Burden is heavily cast on the applicant to show that he has been engaged by the respondent as casual mazdoor from the year 1981. Absolutely, no material is placed by the applicant to show that he has been engaged from the year 1981. So, we accept the contention of the respondents that the applicant had been engaged as casual mazdoor only from Feb., 1986 onwards.

3. According to the applicant, due to strain and ill-health, the applicant could not attend to his duties from 1.8.91 to 25.1.93. After the said period, the applicant is said to have put in a representation for permission to join duties on 27.1.1993 duly enclosing medical certificate. The said joining report was forwarded by the first respondent to the 2nd respondent for condonation of break period from 1.8.1991 to 25.1.1993. The 2nd respondent vide his letter dated 1.3.1993 rejected the request of the applicant that the period of absence cannot be condoned as the absence of the applicant was more than one year. According to

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the applicant, he again addressed ~~to~~ the 2nd respondent on 21.7.1993 with a request for permission to join and continue as casual mazdoor. According to the applicant, there was no response. So, the applicant had approached this Tribunal for the relief(s) as already indicated above.

4. Counter is filed by the respondents opposing this OA.

5. The contention of the respondents is, that the applicant cannot be permitted to join duty because of his continuous absence from 1.8.1991 to 25.1.1993. It is pleaded in the counter of the respondents that the respondents are not questioning the bonafides of the medical certificate for the break period from 1.8.1991 to 25.1.1993, but they could not condone the break

According to the respondents ~~as per~~ the Department of No.269-3/92-STN ^{which} Telecommunication order/dated 21.10.92, envisages how the condonations has to be granted by the Divisional Engineer and Chief GeneralManager. It is also envisaged ^{therein} intimated that no condonation, beyond one year is to be considered; and, henceforth, no cases for condonation for break period beyond one year need be referred to Telecom Commission, New Delhi. Under these circumstances, it is contended that there was no necessity for verifying the bonafides of the Medical Certificates for the break period of more than one year.

6. Admittedly, the applicant had worked with the respondents from the year 1986 upto 30-7-91. So, as the applicant has worked for more than one year

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with the respondents, the applicant is entitled for consideration for grant of temporary status. So, as the applicant is entitled for grant of temporary status, we find, no justification on the part of the respondents in not permitting the applicant to join duty as casual mazdoor. Strictly speaking, the applicant should have been permitted to join duty and after his joining duty, such action, as necessary for the alleged unauthorised absence, should have been taken by the respondents. But, such a course of action had not been taken followed by the respondents; especially, when the applicant was entitled for grant of temporary status in view of his long service with the respondents. In OA 341/90, in a similar matter, the Bench had given certain directions while disposing of the said OA. Hence, it will be fit and proper to allow this OA also by giving appropriate directions.

7. In the result, the OA is allowed with the following directions to the respondents:

- a) The respondents shall engage the applicant if there is work and in preference to freshers and juniors to the applicant.
- b) The applicant shall continue to work and his services shall not be terminated so long as there is work, and so long as his juniors are continued to work;
- c) The applicant's case for grant of temporary status will be considered and keeping in view the services rendered by him; it shall be granted with effect from due date;

T. C. [Signature]

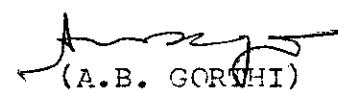
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d) Taking into account the number of days of service put in by the applicant, his case for regularisation will be considered in accordance with rules and regulations.

8. No costs.

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(T. CHANDRASEKHARA REDDY)

Member (Judl.)


(A.B. GORVHI)
Member (Admn)

Dated: 28-2- 1994

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Deputy Registrar (J)CC

TO

1. The Asst.Engineer, C.C.III, Construction NTR Nagar, Kothapet, Hyderabad.
2. The Divisional Engineer, Cable Construction 5th Floor, Room No.510 Taramandal Complex Secretariat, Hyderabad.
3. The Chief General Manager, Telecommunications Doosanchar Bhavan, Nampally Stn.Road, Hyderabad.
4. The General Manager, Telecom Dist.Hyderabad.
5. The Director General, Telecommunications, Sanchar Bhavan, New Delhi.
6. One copy to Mr.K.venkateshwara Rao, Advocate, CAT.Hyd.
7. One copy to Mr.N.R.Devraj, Sr.CGSC.CAT.Hyd.
8. One copy to Library, CAT.Hyd.
9. One spare copy.

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE V. NEELADRI RAO

VICE-CHAIRMAN

AND

THE HON'BLE MR. A. B. GORTHI : MEMBER (A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY

MEMBER (JUDL)

AND

THE HON'BLE MR. R. RANGARAJAN : MEMBER
(ADMN)

Dated: 28-2-1994.

ORDER/JUDGMENT:

M.A./R.A/C.A. No.

in

O.A.No.

1372/93

T.A.No.

(W.P. No.)

Admitted and Interim Directions
issued.

Allowed.

Disposed of with directions.

Dismissed.

Dismissed as withdrawn.

Dismissed for Default.

Rejected/Ordered.

No Order as to costs.

