

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

G.A. No. 840/94.

Dt. of Decision : 4.10.94.

Jagani Venkata Koteswara Rao

.. Applicant.

Vs

1. General Manager,
Telecom District,
Seven Star Buildings,
Vijayawada - 10,

2. Asst. General Manager (Admn.)
O/o G.M., Telecom District,
Vijayawada - 10

.. Respondents.

Counsel for the Applicant : Mr. P. Venkateswarlu

Counsel for the Respondents : Mr. N.V.Ramana, Addl. CGSC.

CORAM:

THE HON'BLE SHRI A.V. HARIDASAN : MEMBER (JUDL.)

THE HON'BLE SHRI A.B. GORTHY : MEMBER (ADMN.)

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25/10/94

O.A.No.840/94

Date of Order: 4.10.1994

X As per Hon'ble Shri A.B.Gorthi, Member (Admn.) X

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The applicant was initially engaged as a Mazdoor in Telecom Sub Division, Jaggaiahpetta on 9.7.1983 when he was about 16 years and 4 months old. Eversince ^{he has} ~~is~~ been working as a Mazdoor and became eligible for the grant of temporary status. The second respondent prepared a list of Mazdoors who were not eligible for regularisation/absorption. The said list dated 13.5.1994 shows the name of the applicant and the reason given against his name was that he did not complete 10 years of service as on 31.3.1994. The contention of the applicant is that as on 31.3.1994 he had rendered morethan 10 years service as Mazdoor, he having joined the department on 9.7.1983.

2. The respondents in their reply affidavit have stated that the service rendered by the applicant prior to his attaining the age of 18 years would not, under the extant instructions, reckon for the purpose of considering his case for regularisation/absorption.

3. Heard learned counsel for both the parties. Mr. Satyanarayan Swarni, learned counsel for the applicant has drawn our attention to

the judgement of this Bench of this Tribunal of P.Mallesha~~m~~ and others vs. General Manager, Telecom Department, Hyderabad (1993 (23) ATC 589). In that case the Tribunal repelled the contention of the respondents that service rendered by the~~m~~ Mazdoors prior to their attaining the age of 18 years should not be reckoned. The decision of the Tribunal in that case was guided to an extent by the fact that the respondents had not shown any rule that service prior to the age of 18 years was to be ignored.

3. The judgement in the case of P.Mallesha~~m~~ was followed in OA.734/90 on the file of this Bench of this Tribunal decided on 29.12.93.

4. Learned counsel for the respondents has now drawn our attention to an extract from the D.G.P & T No.204/24/63-STB dated 15.9.1965. In this a reference was made to an earlier memo dated 5.5.1961 and a clarification was given that "recruitment of casual labour is required to conform to the conditions for recruitment of staff of corresponding grades in the regular establishment". In other~~w~~ords casual labour too should fulfil the prescribed age limits. The age limit for recruitment to a Group 'D' post is between 18 years and 25 years and hence according to the respondents the same age

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limit would also apply for the initial recruitment of casual mazdoors also. There can be no dispute that what is now shown to us is an official memo and not any statutory rule. In any case, there is no dispute that the applicant before us was infact initially engaged as a Mazdoor on 9.7.1983 when he was only 16 years and 4 months old. There are provisions for relaxation of the age limit under certain circumstances. Accordingly we may view that in the instant case the ^{minimum age} ~~memo which~~ in respect of the applicant ^{has} ~~is~~ relaxed to that extent.

5. When an individual joined service and rendered service for a particular period, he acquires certain rights and those can be denied to him only if supported by statutory or other such provision. It is for this reason that even in the C.C.S. (Pension) Rules there are specific provisions laying down that service rendered by an employee before attaining the age of 18 years shall not count for pension except for compensation gratuity. Rule 13 (b) of the C.C.S. (Pension) Rules refers. Moreover the claim of the applicant is only for regularisation/absorption. From the reply affidavit filed by the respondents it would be seen that the guiding factor for consideration for regularisation/

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2. Asst. General Manager (Admn.), O/O G.M. Telecom District, Vijayawada-10.
3. One copy to Sri. P. Venkateswarlu, advocate, Plot No. 12, Srinivasa colony, (W) S.R. Nagar, Hyd-38.
4. One copy to Sri. M. V. Ramana, Addl. CGSC, CAT, Hyd.
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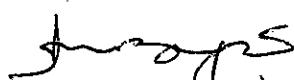
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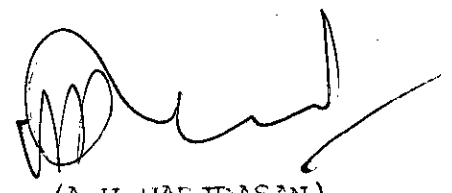
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absorption is the length of service rendered by Mazdoor. As the applicant herein undoubtedly rendered more than 10 years service as on 31.3.1994, the respondents are not justified in refusing to consider his case for regularisation/absorption.

6. As already noted above similar cases came up before this Tribunal and they were decided holding that the service rendered by the Mazdoors prior to attaining the age of 18 years would reckon for the purpose of consideration for regularisation/absorption. We see no reason why we should not follow the afore-stated judgement in deciding the instant case also.

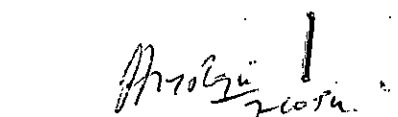
7. In the result, the O.A. is allowed. The respondents are directed to consider the case of the applicant for regularisation/absorption keeping in view our above observations. ^{This} ~~They~~ order may be complied with within a period of three months from the date of communication of the same. There shall be no order as to costs.


(A.B. GORTHI)
Member (Admn.)


(A.V. HARIDASAN)
Member (Judl.)

Dated: 4th October, 1994

(Dictated in Open Court)


Dy. Registrar (J.)

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