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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.630/94.

Dt. of Decision : 28-4-97.

M.M.K.Brahmaji

.. Applicant.

Vs

1. The Sub-Divisional Officer,
Phones, Tenali-201.
2. The General Manager, Telecom,
Guntur-2.
3. The Chairman,
Telecom Commission,
(representing Union of India),
New Delhi-110 001.

.. Respondents.

Counsel for the applicant : Mr.C.Suryanarayana

Counsel for the respondents : Mr.N.V.Raghava Reddy, Addl.CGSC.

CORAM:

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

THE HON'BLE SHRI B.S. JAI PARAMESHWAR : MEMBER (JUDL.)

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ORDER

ORAL ORDER (PER HON'BLE SHRI B.S. JAI PARAMESHWAR : MEMBER(JUDL.)

Heard Mr.C.Suryanarayana, learned counsel for the applicant and Mr.N.V.Raghava Reddy, learned counsel for the respondents.

2. The applicant was initially recruited as Full Time Casual Mazdoor as per memo bearing No.E.42/III/80 dt.19-4-77 (Annexure A-2), that subsequently he was appointed as part time ~~casual~~ ^{on} Annexure-3. He was thus provided six hours work per day ~~on~~ on No.74 a monthly wage of Rs.157.50/- . Later by an order dated 4-2-78 (Annexure A-4) he was given split duty w.e.f., 4-2-78, that he served the department under split duty for about 9 years and he was terminated on 24-05-86. Against this termination he raised an Industrial dispute which culminated in the final order of this Tribunal in OA.701/92. As per the order passed by this Tribunal dated 28-9-92 in OA.701/92 the applicant was reinstated in service on 2-2-93 with full back wages. Subsequently he made representations dated 12-3-92 and 4-11-92 for regularisation in the establishment. On 21-6-93 the SDO, Phones, Tenali gave his order No.E.25/REG/CM/IV/7 dated 21-6-93 stating that the applicant has been reinstated into service as per the directions in OA.701/92 with full back wages and not continuity of service for absorption as a regular employee and ~~xxx~~ hence his claim for absorption for regularisation of service cannot be accorded to.

3. Being aggrieved by the said order the applicant has filed this OA praying this Tribunal to set aside the order No. E.25/REG/CM/IV/7 dated 21-6-93 and to direct the respondents to absorb him as full time regular mazdoor in the establishment of the 2nd respondent w.e.f., 1-4-87 if necessary by creating a supernumerary post for absorbing him, especially leaving it open to him to take such action as may be proper to recover his wages for 2 hours a day since 4-2-78 and for a consequential relief.

Or

4. The respondents have filed their counter affidavit stating that the Chairman, Industrial Tribunal had disallowed the claim of the applicant for continuity of service that the said decision does not confer any right on the part-time officials hitherto working or automatic conversion into full time mazdoors. It may also be noted that when ^{the} club duties of two or three P.T. Officials, a new mazdoor ^{could} be recruited eliminating the ground of part-time workers and that ^{in view} ~~any~~ of the decision in OA.701/92 the applicant cannot be regularised.

5. The learned counsel for the applicant during his course of his arguments relied upon the Govt. of India, Telecommunication circulated by the Chief General Manager vide his letter No.TA/STA/9-1/Rlgs/V. dated 30-11-88, ^{He stated} ~~submits~~ that in terms of para-1 and 2 of that letter ^{he} is entitled for regularisation w.e.f., 1-4-87. In para-1 and 2 referred to above is reads below:-

"1. Only those casual labourers/part-time casual labourers who have been rendered 7 years' service as on 31-3-87 i.e., who have been serving this department since or prior to 1-4-80 are to be regularised against these posts."

"2. The following shall be the eligibility conditions:-

(i) Full time casual labourers who have put in a service of at least 240 days per year in any two years prior to 31-3-87
(ii) In the case of full time casual labourers working for five days in a week in administrative offices observing 5 day week, 206 days or more per year in any two years prior to 31-3-87, after the introduction of the 5 day week scheme, will suffice.

(iii) Part time casual labourers should have rendered a service of at least 240 days per year in any four years prior to 31-3-87 (206 days per year for the period during which 5 day week is followed)."

As per para-1 the casual labourers/part-time casual labourers is rendered ⁷ years of service as on 31-3-87 who have been serving this department since or prior to 1-4-80 are to be regularised against these posts. It is stated that the applicant has put in that required service stipulated in para-1 of the said letter.

In sub-para(iii) of para-2 is relevant in regard to the part-time casual labourers. The part time casual labourers should have rendered a service of at least 240 days per year in any four years prior to 31-3-87. The applicant submits that from the time his services were terminated as on 24-5-86 till 1-4-87 his part time service has to be counted in terms of para-4 of that circular. In para-4 of that circular is reads as below:-

"Regularisation should be done from the common list to be prepared by each of the recruitment units in terms of this office circular No.269-69/88-STN dt.17-10-88 (copy enclosed). All these casual/part time casual labourers shall be arranged in order of their seniority with reference to the number of days of service ~~rendered~~ merged with the full-time ~~casual~~ part-time casual labourers by computing half or the total number of days of service in the case of part-time casual labourers.

As per that part time casual labourer shall be merged with full time casual labourer by computing half or the total number of days of service in the case of part-time casual labourers. If that service is calculated the applicant submits that by 1-4-87 he had ~~not~~ put in requisite number of days of service as stipulated in sub-para (iii) of para-2 of the circular. Hence, the applicant has to be given regularisation w.e.f., 1-4-87 and consequential benefit such as fixation of seniority at the appropriate place and also further promotion fixing on that basis.

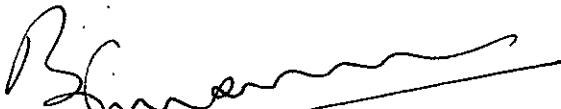
6. There is force in the argument of the applicant's counsel. The learned counsel for the respondents submitted that his service will be calculated in terms of the above and he will fulfill all the conditions stipulated as above he will be regularised w.e.f. 1-4-87 and his seniority fixed accordingly in the cadre of casual labourers.

7. In view of the above, the following direction is given :-

R-2 should calculate the service of the applicant as per the circular No.TA/STA/9-1/Rigs/V dated 30-11-88 and if he fulfills the condition as observed above he should be regularised as regular ^Mazdoor w.e.f., 1-4-87 and on that basis his further consequential benefits such as fixation of pay, seniority and further promotion should be considered.

8. Time for compliance is three months from the date of receipt of a copy of this order.

9. The OA is ordered accordingly. No costs.



(B.S. JAI PARAMESHWAR)
MEMBER (JUDL.)

28/4/97



(R. RANGARAJAN)
MEMBER (ADMN.)



Dated : The 28th April 1997.
(Dictated in the Open Court)

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17/6/97
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TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE SHRI R.R. RAGARAJAN : M(A)

AND

THE HON'BLE SHRI B.S. JAI PARAMESHWAR:
M(J)

DATED: 28/4/97

ORDER/JUDGEMENT

R.A/C.P/MIA : No.

in

D.A. No. 630/94

ADMITTED INTERIM DIRECTIONS ISSUED
ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

YLKR

II COURT

केन्द्रीय प्रशासनिक विधिकरण
Central Administrative Tribunal
DESPATCH

13 JUN 1997

HYDERABAD BENCH

Co No/11
when is the signature
of m/c/o??