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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

O.A. 63/95

Date of decision: 20-10-97

Between:

B. Narsing Rao .. Applicant

-versus-

1. Union of India
through
Chief General Manager,
Telecommunications,
Door Sanchar Bhavan,
Stn. Road, Nampally,
Hyderabad - 500 001.
2. General Manager,
Telecommunications,
Hyderabad,
Surya Lok Complex,
Hyderabad - 500 001.
3. Divisional Engineer,
Telecommunications (Rural)
Hyderabad - 500 050.
4. Sub-Divisional Officer,
Ibrahimpatna,
Ranga Reddy Dist. .. Respondents

Counsel for the applicant : Mr. B.S.A. Satyanarayana

Counsel for the respondents : Mr. V. Bhimanna

Coram:

Hon'ble Shri H. Rajendra Prasad, Member (A) *Q. 6/1*

Date:

JUDGMENT

(Per Hon'ble Shri H. Rajendra Prasad, M(A) (

The applicant was engaged as Casual Labourer from 1-6-82 to 31-8-87. During this period he worked for periods exceeding 240 days in each year. In April, 1987, however, he worked for not more than 73 days. According to the applicant he was unwell on account of a variety of ailments like jaundice, palpitation of heart, chest pain etc. and was fit again to perform duties only from 21-10-88. From 1-10-89 he worked continuously and more than 240 days in most of the years thereafter. The applicant produces a record of service to this effect from 31-8-87 to 20-12-94, duly verified by the concerned departmental authorities.

According to the respondents, his request for grant of temporary status could not be granted since there was a break of more than two years in his service.

The applicant contends that since he had been working continuously from 1-6-82 onwards upto 31-12-1994, the said break-in-service could not preclude a proper consideration of his case for conferring temporary status followed by regularisation.

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2. The respondents in their counter-affidavit admit that the applicant had put in a continuous service of more than 240 days during atleast nine years successively between June '82 till 31-3-94 and beyond. They, however, point out that he was on long absence from 1-9-87 to 30-9-89. It is submitted by them that as per the liberalised scheme for grant of temporary status promulgated from 1-10-89 all casual labourers to be considered for temporary status had to render a continuous service of atleast one year by 1-10-89. Although the applicant had no doubt rendered service of more than 240 days during a number of years, the uncondoned break of more than two years stands in his way. There is no provision for condoning such a long break in the rules. Hence the inability to concede the prayer of the applicant.

3. The rest of the arguments and pleadings in this case are similar to those contained in O.A. 836/95 (V. Satyanarayana Raju vs. SDO Telecom Tadepalligudem and Ors.) These are:-

(1) Original Scheme evolved in connection with conferment of temporary status (followed by

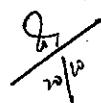
absorption in regular establishment) for eligible casual labourers does nowhere speak of 'break-in-service'. This expression seems to have been introduced by the respondents as a convenient routine administrative phrase or expression. Break-inservice in case of regular employees is duly incorporated in basic rules and regulations whereas this concept is alien to casual labourers. Hence any over dependence on break-in-service by the department to deny the legitimate rights of a worker might not be acceptable or correct.

2. The Respondents have prescribed certain restrictions as regards to powers to condone break-in-service. According to this, any absence of more than one year cannot be condoned by any one at all in the department. This does not seem to be a rational dispensation. Since there is no reason why an absence of more than

a year cannot be condoned by an appropriate higher authority in eminently deserving cases, i.e. prolonged illness and subsequent recovery.

3. If the applicant had been unauthorisedly and unaccountably absent for a long time he should not have been re-engaged on the strength of a medical certificate, as was evidently done in this case. The very fact that this medical certificate was accepted and the applicant was re-admitted to duty would prove that the concerned authority had proper and valid reasons before it for admitting the applicant to duty. By re-engaging him this would itself amount to condonation of absence.

The following order is therefore passed :


n/p

4. Basing on the facts of the case I consider as adequate to direct the applicant to submit a representation to Respondent-3, highlighting the facts of the case. The points raised on his behalf, as indicated above, can be raised in the representation. This may be done within 30 days from the date of this order. The same shall be got examined by Respondent No.3 and a suitable decision taken on the basis of the points raised therein and after suitably examining the validity of these pleadings in the light of administrative instructions as well as principles of natural justice. The respondents, if they consider it necessary, are free to verify the genuineness of the medical certificates stated to have been sent by the applicant. A proper decision in the form of a detailed speaking order on all the points raised in the applicant's representation shall be communicated to the applicant within two months from the date of its receipt.

5. It is further directed that till the final decision is taken in this case the applicant shall continue to be engaged as long as work is available.

6. Thus the OA is disposed of.

Dr.
20/10

MD

AM
Deputy Registrar

(H. RAJENDRA PRASAD)
Member (A)

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O.A.63/95.

To

1. The Chief General Manager, Union of India, Telecommunications, Door Sanchar Bhavan, Station Road, Nampally, Hyderabad-1.
2. The General Manager, Telecommunications, Hyderabad, Surya Lok Complex, Hyderabad-1.
3. The Divisional Engineer, Telecommunications(Rural) Hyderabad-050.
4. The Sub Divisional Officer, Telecommunications, Ibrahimpatnam, Ranga Reddy, Dist.
5. One copy to Mr. B. S. A. Satynarayana, Advocate, CAT. Hyd.
6. One copy to Mr. V. Bhimanna, Addl. CGSC. CAT. Hyd.
7. One copy to HHRP.M.(A) CAT. Hyd.
8. One copy to D.R.(A) CAT. Hyd.
9. One spare copy.

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29/10/97
I Court.

TYPED BY:

CHECKED BY:

COMPARED BY:

APPROVED BY:

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE.
VICE-CHAIRMAN

And

THE HON'BLE MR.H.RAJENDRA PRASAD :M(A)

DATED:- 20/10/97

----- JUDGMENT.

M.A.,/RA.,/C-A.No..

O.A.No. 63/95 in

T.A.No.

(W.P.)

Admitted and Interim directions issued.

Allowed

Disposed of with Directions.

Dismissed.

Dismissed as withdrawn

Dismissed for default

Ordered/Rejected

No order as to costs.

