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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.1079 of 1995

DATE OF ORDER: 19th December, 1997

BETWEEN:

P.PRAKHAKAR

.. APPLICANT

AND

1. The Telecom District Manager,
Anantapur-515 050,
2. The Director General, Telecom,
(representing Union of India),
New delhi 110 001.

.. RESPONDENTS

COUNSEL FOR THE APPLICANT: Mr.C.SURYANARAYANA

COUNSEL FOR THE RESPONDENTS: Mr.K.RAMULU, Adl.CGSC

CORAM:

HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.)

JUDGEMENT

ORAL ORDER (PER HON'BLE SHRI R.RANGARAJAN, MEMBER(ADMN.))

Heard Mr.C.Suryanarayana, learned counsel for the applicant. None for the respondents.

2. Though this OA was filed on 7.9.95, the respondents have not filed reply. In view of the above, the OA is disposed of under Rule 16(1) of the Central Administrative Tribunal (Procedure) Rules, 1987.

3. The case of the applicant is as follows:-

The applicant was engaged on 1.1.91 as Casual Mazdoor under the Assistant Engineer (Administration).



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Upto 31.5.91 he was employed for 118 days under the said AE and paid wages for his actual working days but not for weekly days when the office was closed. It is stated that he was paid wages at the rate of Rs.12/- per day for actual working days. He was further employed from June 1991 to February 1992 and again from March 1992 to 29.7.93 under AE (Works). Thus during the period upto 31.12.91, he was in continuous empoyment for 287 days excluding weekly off days, national and telegraph holidays. He submits that in that year he had worked for more than 240 days. During the period upto 29.7.97, he was paid wages at the rate of Rs.12/- per day. The applicant submits that he was paid in pseudonymous name though he received that money.

4. Thereafter, the applicant continued in the employment under AE (Works) and his wages were paid from the imprest bills as indicated in para 5 of his representation dated 25.4.95 (Annexure A-5 at page 17 to the OA). During that period, he submits that payments were made to him in his name at the rate of Rs.26.50 per day for 110 days covered in the aforesaid imprest bills.

5. Upto 23.9.94, the applicant was again employed in pseudonymous name and paid wages at the rate of Rs.26.50 per day. Thereafter he was continued in the employment in his own name and paid wages in his own name. During the period from 24.9.94 to 30.9.94 he was paid wages at Rs.26.50 per day; from 1.10.94 to 31.12.94 he was paid at the rate of Rs.30/- per day and for the period from 1.1.95 to 31.3.95 he was paid at the rate of Rs.35/- per day.

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6. The applicant submitted representation dated 25/26.4.95 (Annexure A-5 at page 17 to the OA) addressed to R-1 for granting him temporary status and also regularising his services for the reasons stated in his representation. The applicant submits that in view of the representation, he was retrenched from service with effect from 1.7.95 even without giving him any notice or a month's pay in lieu thereof.

7. The applicant submits that he has to be given a month's notice or one month's wage in view of the DGP&T letter dated 1.10.84 (Annexure A-1 at page 7 to the OA). The applicant is of the view that his retrenchment is void as rules are not followed and his pay is also not fixed at the rate of 1/30th of the monthly wages of a regular Group.D employee during the period he served as Casual Mazdoor.

8. This OA is filed praying for declaration that termination of his service w.e.f. 1.7.95 is violative of the legislative policy inbuilt in the ID Act and the mandatory provisions of Chapter V-A thereof as well as DG's orders dt. 1.10.84 and that the respondent-authorities' action of retrenchment constitutes retrenchment which is void ab initio and consequently to direct the respondent-authorities to reinstate the applicant with continuity of service and back wages from 1.7.95 besides enlisting him in the seniority list of casual mazdoors of Anantapur Telecom District for absorption in the regular establishment according to his turn in the seniority list and pending the above prayer to grant him temporary status from the date he

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completed 240 days of service within a span of one year.

9. As already stated, no reply has been filed in this OA inspite of the fact that the OA was filed about 2 1/2 years back. The action of the respondents in not filing reply in time is deplorable. In view of the fact that no reply is filed and the OA is filed in 1995, I am disposing of this OA on the basis of the facts available on record as recorded ~~by him~~ above.

10. An interim order dated 12.9.95 was passed in this OA wherein the respondents were directed to consider reengagement of the applicant, if there is work and if juniors to him are retained as Casual Mazdoors under the Telecom District Manager, Ananthapur.

11. It is not understood why the applicant has not questioned when he was paid under pseudonymous name for certain periods. The learned counsel for the applicant submits that he is forced to do it as he will be discharged if he has not accepted the payment under pseudonymous name. But that does not absolve the applicant from ~~order~~ ^{Act} of signing the bill which is not in his name. But it is not necessary for me to go futher into this issue.

12. The applicant submits that he has been discharged under verbal orders without following the legislative policy inbuilt in the ID Act besides being in violation of the mandatory provisions of Chapter V-A of the ID Act, 147. If any ID Act is infringed, the applicant may have to approach the appropriate authorites. The applicant also



submits that similar orders have been issued by the DGP&T in the letter dated 1.10.84 (Annexure A-I at page 7 to the OA) and since these orders are not followed in his case, he has approached this Tribunal.

13. If the orders of the DGP&T are not followed and the applicant is retrenched without giving him even a notice, then the applicant should have protested against that by submitting a representation. If such a representation is available on record, then his case for challenging his retrenchment will be strengthened. But, for the reasons known to him, he has not put in any representation protesting against his retrenchment by verbal orders. But in my opinion, the authorities should have woken up if such a representation is received. Hence this OA in view of the failure on the part of the respondents to consider his case in accordance with law and also failure on the part of the respondents to file reply in this case justifying their stand.

14. It is no doubt that the applicant had worked in the Department between the dates mentioned in the facts of this case. Hence it cannot be said that the applicant is stranger to the Department. He has put in some service and that would have enabled him to understand the working of the Department well and that will stand in good strength not only for discharging his duties but also for efficient functioning of the Department. If in future any engagement of Casual Labour is resorted to, then the applicant should get preference over the freshers. The learned counsel for



the applicant submits' that his juniors are continuing whereas he is retrenched. To safeguard his interest the interim order dated 12.9.95 has been issued which is in his favour. Hence the case of the applicant should be considered for engagement of Casual Mazdoor in future if need arises, in accordance with the interim order and also in preference to freshers from open market.

15. The representation of the applicant dated 25.4.95 (Annexure A-5 at page 17 to the OA) for granting him temporary status and also regularising his services does not appear to have been disposed of. The applicant in this representation has made out a number of points for granting him the above relief. It is not understood why no reply has been given to the applicant though more than 2 1/2 years have passed. In that view, it is necessary to give a direction to the respondents to dispose of the representation of the applicant dated 25/26.4.95 also in accordance with law expeditiously. This representation though addressed to R-1 should be disposed of by the officer who is superior to R-1, probably the General Manager, Telecom, Hyderabad Area. While considering the representation dated 25/26.4.95, the respondents should also consider his request for granting him the minimum of the pay scale of a regular Group-D employee for the period he worked, in accordance with the rules.

16. In the result, the following direction is given:-

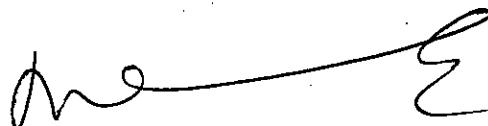
(i) The applicant should be considered for engagement as Casual Labourer in accordance with the interim order of this Tribunal dated 12.9.95 and also in



preference to the freshers from the open market if there is need to engage Casual Labour.

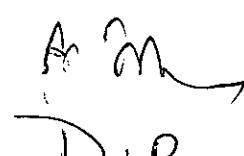
(ii) The representation of the applicant dated 25/26.4.95 should be disposed of by the General Manager, Telecom, Hyderabad Area in accordance with law within a period of two months from the date of receipt of a copy of this Judgement. If this representation is not available with the respondent-authorities, the applicant may be asked to submit a copy of that representation. While disposing of the representation, the request of the applicant for granting him the minimum of the pay scale of a regular Group-D employee for the period he worked, shall be considered in accordance with the rules.

17. With the above direction, the OA is disposed of. No order as to costs.



(R.RANGARAJAN)
MEMBER (ADMN.)

DATED: 19th December, 1997
Dictated in the open court.


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DA.1079/95

Copy to:-

1. The Telecom District Manager, Anantapur.
2. The Director General, Telecom, New Delhi.
3. One copy to Mr. C. Suryanarayana, Advocate, CAT., Hyd.
4. One copy to Mr. K. Ramulu, Addl. CGSC, CAT., Hyd.
5. One copy to D.R.O.(A), CAT., Hyd.
6. One duplicate.

srr.

30/12/97

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TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD

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

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

Dated: 17/12/97

ORDER / JUDGMENT

MA./R.A./C.R.No.:

in
D.A.NO. 1079/95

Admitted and Interim Directions
Issued.

Allowed

Disposed of ~~With Directions~~

Dismissed

Dismissed as Withdrawn

Dismissed for Default

Ordered/Rejected

No order as to costs.

SRR

II Court

केन्द्रीय प्रशासनिक अधिकारण
Central Administrative Tribunal
DESPATCH

26 DEC 1997

हैदराबाद न्यायालय
HYDERABAD BENCH