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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH

O.A.1533/95

Date of decision: 17.9.97

Between:

N.Nagamani

.. Applicant

-versus-

1. The Divisional Engineer,
X-mission Project,13-350,
Ramachandranagar,
Anantapur - 515 001.

2. The Telecom District Manager,
Anantapur - 515 050.

3. The Director General, Telecom
(representing U.O.I.)
New Delhi - 110 001.

.. Respondents

Counsel for the applicant: Mr. C.Suryanarayana

Counsel for the respondents: Mr. K. Bhaskara Rao

Coram:

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

O R D E R

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

The applicant was initially engaged
on casual basis in the jurisdiction of respondent-1
on 1-2-1991 and continued to serve till November, 1995.

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with intermittent breaks. His grievance is that although he worked for considerably long spells over a 4-year period, including a total of more than 240 days in certain years during this time, he has not been granted temporary status, nor, for that reason, considered for regular absorption.

2. In Daily Rated Casual Labour vs.

Union of India and Ors. (1988(1)SCC 122/AIR 1987

SC 2342) Hon'ble Supreme Court directed the erstwhile P&T Department to prepare a scheme on a rational basis for absorbing, as far as possible, casual labourers who have been continuously working for more than one year in the Department. Consequent to this the Department evolved and communicated a scheme to all subordinate units on 7-11-89. Under the scheme all casual labourers who were currently employed at the time and who had rendered a continuous service of at least one year, -out of which they must have been engaged for a period of 240 days, -were to be considered for grant of temporary status without reference to the creation/availability of regular Group-D posts. Such employees could later be brought on to the permanent establishment through regular

selection process for Group-D posts. The scheme was extended later to all employees who had been engaged upto 7-11-89 .

3. The DOT instructed as under vide its letter No.269-69/88-STM dt. 17-10-88:

- "1. A combined seniority list of all casual labourers in respect of a recruitment unit will be maintained. This list will include all casual labourers working within the territorial jurisdiction of the recruitment unit, for various functional units such as Telecom Project/Maintenance regions/Electrification/Quality Assurance etc. to which they are attached.
- 2. Absorption of casual labourers against regular group 'D' post or retrenchment due to exigencies such as non-availability of work, will be done strictly according to the combined seniority list. "

4. The Hon'ble Supreme Court in disposing of certain writ petitions, Ram Gopal & Ors. vs. Union of India and Ors (unreported writ petition C.No. 1280/89) held that inasmuch as the applicants therein had been working for more than one year, and since the counter-affidavit did not dispute that position, no distinction could be drawn between the petitioners as a class of employees and those who were before the Hon.Court (reported decision 1988(1)SCC 122). On principle, therefore, it was held that the benefits of the decision must be

taken to apply to the petitioners. The authorities were accordingly directed to prepare a scheme on rational basis for absorbing, as far as practicable, all casual labourers including the petitioners therein, subject to their fulfilling the basic conditions to consider the claim of the petitioners in terms of the scheme after it was worked out.

5. Based on the above decision the applicant prays for a direction to the respondents to include her name in the seniority list of casual labourers of the concerned Telecom District from the date of her initial engagement, to confer temporary status on her and to absorb her as per her seniority in the list, as per rules. The applicant also contends the respondents' claim that she was engaged on contract basis is a sham since no contractor was involved in the process of her engagement, nor was there any change in the nature of the work entrusted to her nor in mode of payment, and, in any case, the applicant had offered her own services as contract-labourer.

6. No counter-affidavit has been filed in this O.A. It is stated by the learned counsel for the respondents that the counter filed in OA 1534/95 adequately covers the facts of this OA also. The counter-affidavit filed in OA 1534/95 does not deal with any of the above contentions and merely contents

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itself by emphasising two points - firstly that the applicant was engaged on contract basis, and secondly, that she was engaged for short periods for specific works and was not borne on any establishment during this period.

7. The argument that the applicant was engaged on contract basis is too transparent to be accepted rightaway. On the one hand respondents state that the engagement of casual labour after 30-3-85 was banned and on the other they also add that since many project works had continued to be carried out, some workmen had to be engaged for short spells on contract basis.

8. It is apparent therefore that, notwithstanding the so-called ban, workers were continued to be engaged for completion of these works.

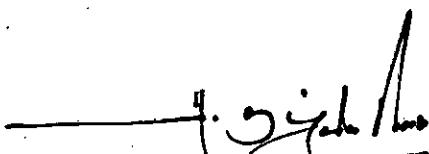
9. The question of termination of services of casual employees, or grant of temporary status to them followed by their absorption in regular establishment, are question that are engaging the attention of this Tribunal in several other cases. A detailed counter is reported to have been filed in some of them and these issues are likely to be taken up shortly for forming a final view in the matter. For the present, therefore, these questions can await. Depending on the outcome of the cases referred to the applicant may, if necessary, approach the respondents for a suitable

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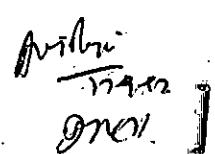
relief at an appropriate time. For the present it would be adequate to direct the respondents on priority basis to engage the applicant as per rules in force, in any work that is available now or in future. In case she is so engaged, she will not ordinarily be dislodged as long as work is available for her anywhere throughout the jurisdiction of respondent No. 2.

10. Thus the OA is disposed of.


H. Rajendra Prasad,
Member (A)

17 SEP 97

MD


Arun
17/9/97
DNR

O.A. 1534 & 1535/95.

To

1. The Divisional Engineer,
Transmission Project, 13-350,
Ramachandranagar, Anantapur-1.
2. The Telecom District Manager,
Anantapur-050.
3. The Director General, Telecom,
Union of India, New Delhi-1.
4. One copy to Mr.C.Suryanarayana, Advocate, CAT.Hyd.
5. One copy to Mr.K.Bhaskar Rao, Addl.CGSC. CAT.Hyd.
6. One copy to HHRP.M.(A) CAT.Hyd.
7. One copy to D.R.(A) CAT.Hyd.
8. One spare copy.

pvm.

aff
23/9/97

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:- 17/9/97

~~ORDER~~ JUDGMENT.

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

in

O.A.No. 1533 | 95.

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.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

DESPATCH

22 SEP 1997

HYDERABAD BENCH