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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

O.A.1534/95

Date of decision: 17/9/97.

Between:

M. Mahesh .. Applicant

-versus-

1. The Divisional Engineer,
Transmission 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 1-8-93 and continued to serve till November, 1995 with intermittent breaks. His grievance is that although he worked for considerably long spells over a two year period, including a total of

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more than 240 days in a year 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 to all employees who had been engaged

upto 7-11-89.

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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

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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 his name in the seniority/^{list} of casual labourers of the concerned Telecom District from the date of his initial engagement, to confer temporary status on him and to absorb him as per his seniority in the list as per rules. The applicant also contends that the respondents' claim that he was engaged on contract basis is a sham since no contractor was involved in the process of his engagement, nor was there any change in the nature of the work entrusted to him nor in mode of payment, and, in any case, the applicant had offered his own services as contract-labourer.

6. A Counter-affidavit has been filed in this O.A. The counter-affidavit does not deal with any of the above contentions and merely contents itself by emphasising two points - firstly that the applicant was engaged on contract basis, and secondly, he was engaged for short periods for specific work 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 work 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 wait. Depending on the outcome of the cases referred to, the applicant may, if necessary, approach the respondents for a suitable relief at an appropriate time. For the present it would be adequate to direct the respondents to engage the applicant as per rules in force, in any work that is available now or in future. In case he is so engaged, he will not ordinarily be dislodged as long as work is available for him anywhere throughout the jurisdiction of respondent No.2

10. Thus the OA is disposed of.

MD

H. Rajendra Prasad
Member (A)

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Deputy ~~Suppt~~ ^{Suppt} ~~17/97~~ ^{17/97}
Secretary (D) ce

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.

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aff 23/10/88

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/JUDGEMENT.~~

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

in

O.A.No. 1534/95

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

