

(25)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL::HYDERABAD BENCH::
AT HYDERABAD.

O.A.No. 307/96.

Date:24-4-1996.

Between:

Pallikanti Venkataiah .. Applicant

And

1. The Telecom Dist. Engineer, Adilabad, Adilabad District.
2. The Sub-Divisional Officer, Telecommunications, Manchiryal, Adilabad, Adilabad District.
3. The Chief General Manager, Telecommunications, A.P.Circle, Hyderabad.
4. The Director General, Telecommunications, New Delhi. .. Respondents

Counsel for the Applicant : Sri Ch.Jagannatha Rao, Advocate.

Counsel for the Respondents: Sri N.R.Devaraj, Sr.CGSC

C O R A M:

THE HON'BLE SRI R. RANGARAJAN, MEMBER (ADMINISTRATIVE)

J U D G M E N T

As per Hon'ble Sri R. Rangarajan, Member (Administrative)

Heard Sri Ch.Jagannatha Rao, learned Counsel for the applicant and Sri N.R.Devaraj, learned Standing Counsel for the respondents.

2. It is stated that the applicant was initially appointed as Casual Mazdoor on 1.2.1985. He was continued in that capacity till 23.11.1989, and thereafter he was disengaged. Aggrieved by the above disengagement on 23.11.89, he had filed OA 709/90 on the file of this Bench praying

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for his re-engagement. That OA was disposed of by orders dt. 27.3.1991 directing the respondents therein to prepare a seniority list as per various instructions issued by the Director General, Telecommunications and also to reengage the applicant in accordance with the seniority, subject to the availability of work and also to extend such other benefits as per D.G. letters issued from time to time taking into consideration the judgments of the Supreme Court after preparing the seniority list/conferment of temporary status as per the above circulars.

3. In pursuance of the above order, he was engaged with effect from 1.8.1991. Thus, there was a break of service between 23.11.1989 to 31.7.1991. The applicant submits that this break is not his making, but it is failure on the part of the respondents to engage him during that period.

4. When the applications were called, ~~for~~ for regularisation of those casual mazdoors who were put in 10 years of service as casual labour as on 1.4.1996, the case of the applicant was not considered for regularisation as there was break in service during the period from 23.11.89 to 31.7.91.

5. Annexure-I proceedings dt. 20.2.1996 bearing No.E-35-5/ADE/95-96/47 states that if there is break in service for more than six months, the period earlier to the break will not be counted for the purpose of quantifying service. As the applicant was not in service during the period from 23.11.89 to 31.7.91, his casual service earlier to that period was not accounted for and hence, he did not possess the qualifying service of 10 years for considering him for regularisation of his services.

6. Aggrieved by the above, the applicant has filed this OA praying for a declaration that the applicant is entitled for regularisation of his services without insisting the clause (3) of the eligibility conditions for regularisation of impugned pro. No. E-35-5/ADE/95-96/47 dt. 20.2.1996 issued by the Respondent No.1 with all consequential benefits by holding the action of the respondents in not condoning the break in service from 23.11.89 to 31.7.91 caused to the applicant by the respondents in terms of the judgment dt. 8.4.1993 in O.A. No. 1021/91 and batch of Hon'ble Ernakulam Bench ~~xx~~ as illegal, bad, arbitrary, discriminatory and violative of Articles 14 and 16 of the Constitution of India.

7. The applicant submits that Ernakulam Bench of this Tribunal has given certain general principles which should be followed in adjudicating the cases in regard to regularisation of casual labour employees regarding condonation of break in service. The above judgment is reported in [1993 (2) ATJ - A. Mohanan and Ors. Vs. Union of India and Ors. I (Annexure-V to the OA). As per the above, the general principle as laid down by Ernakulam Bench in regard to consideration of broken period reads as follows:-

"(e) Broken periods of casual service should be taken into account so long as the break in casual service does not exceed one year provided he was subsequently reengaged. Condonation of break in casual service beyond one year can be allowed by the competent authority as prescribed on valid grounds. Break in service exceeding one year can be condoned by the competent authority only on medical grounds or non-availability of work."

From the above, it transpires that the break in service can be condoned by the competent authority upto one year beyond which, it can be done only on medical grounds or non-availability of work.

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8. It is stated for the applicant that he had filed a representation dt. 9.3.1996 to the 3rd respondent, but it is stated that no decision has been taken on his representation. The learned Standing Counsel submits that this representation has not been received by R-3.

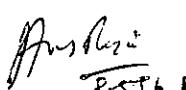
9. In view of the above, the applicant may now send a copy of the above referred representation to 2nd respondent along with a copy of this judgment and O.A. While handing over the representation to 2nd respondent applicant has to take acknowledgement from the concerned in the office of R-2 so as to ensure that the representation is received along with its enclosures by R-2. If such representation is received by R-2, it should be forwarded to R-3 and the same should be disposed of by R-3 within a period of 3 months from the date of receipt of the said representation submitted to him.

10. The OA is ordered accordingly. No costs.


(R. Rangarajan)

Member (Admn.)

Dated 24th April, 1996.
Dictated in open court.


P.S.J.B
Dra.

Grh.

Copy to:-

1. The Telecom Dist. Engineer, Adilabad, Adilabad District.
2. The Sub Divisional Officer, Telecommunications, Manchiryal, Adilabad, Adilabad District.
3. The Chief General Manager, Telecommunications, A.P.Circle, Hyderabad.
4. The Director General, Telecommunications, New Delhi.
5. One copy to Sri. Ch. Jagannatha Rao, advocate, CAT, Hyd.
6. One copy to Sri. N.R. Devaraj, Sr. CGSC, CAT, Hyd.
7. One copy to Library, CAT, Hyd.
8. One spare copy.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE SHRI R.RANGARAJAN : MCA

DATED: 24/4/96

ORDER/JUDGEMENT

M.A. NO/R.A/C.A. No.

IN
B.A. NO. 307/96

ADMITTED AND INTERIM DIRECTIONS ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDERS AS TO COSTS

No Spare Copy

