

24

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO.450/96

DATE OF ORDER : 04-09-1997.

Between :-

K.Ramachandrudu

... Applicant

And

1. The Sub-Divisional Engineer,
Telecom, Tadpatri-515 411.
2. The Telecom District Manager,
Anantapur-515 001.
3. The Chief General Manager,
Telecommunications, AP,
Hyderabad-1.
4. The Director-General, Telecom
(reptg. Union of India),
New Delhi - 110 001.

... Respondents

--- -- --

Counsel for the Applicant : Shri C.Suryanarayana

Counsel for the Respondents : Shri V.Bhimanna, CGSC

CORAM:

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

(Order per Hon'ble Shri R.Rangarajan, Member (A)).

(Order per Hon'ble Shri R.Rangarajan, Member (A)).

Heard Sri C.Suryanarayana, counsel for the applicant and Sri V.Bhimanna, standing counsel for the Respondents.

2. The applicant was engaged as a Casual Labourer from 1979 to 1983 (details as per Annexure-1 statement). As per that statement he was engaged from 1-7-79 and continued up to 25-10-83 with intermitent breaks in between. The applicant submits that he had put in more than 240 days of service in a year for number of years during that period. Thereafter it was stated that the applicant was sick list. Nowhere it is stated in the OA that the applicant took permission from the respondents to absent himself. The applicant was re-engaged with effect from 3-7-88 and continued upto 28-6-93 as per the Annexure-3 statement. The applicant submits that after 28-6-93 though he was asked to perform casual duties, his name was removed from muster rolls and also he was paid without taking his signature.

3. The contention of the applicant in this OA is that as he had put in more than 240 days in each year for a number of years, he should have been granted temporary status and consequential regularisation.

4. This OA is filed for ^a declaration that the verbal termination of the services of the applicant is not only illegal but also void, ab-initio on account of non-compliance with the mandatory provisions of the ID Act and also of the DG's orders/

instructions as well as the 3rd respondent's instructions and consequently to declare that the applicant is entitled to reinstatement with continuity of service and backwages with effect from 16-11-95.

5. A reply has been filed in this OA. It is stated in the reply that the applicant was engaged along with others on daily wages as and when there was work during July, 1979 to October, 1983. From 1983 onwards he himself was absent. When the applicant again approached the Respondents in July, 1988, he had been engaged on daily wages as and when there was work. Hence he was not borne on regular establishment. Hence the respondents submit that the applicant having absented himself during that period, he cannot be taken back on duty counting his past services. It is also stated that the Industrial Disputes Act of 1947 will not come to his rescue as Telecommunications Department is not an industry as per the judgement of Supreme Court.

6. The learned counsel for the applicant submits that he was engaged in 1979 in Co-Axial Cable Project Organisation in Rajahmundry and hence his name would not have been included in Muster Rolls of Respondent No.1. The learned counsel for the applicant also submits that the question of declaring the Telecom Department as an Industry or not is still pending before a larger Bench of the Supreme Court of India.

7. The first point for consideration in this OA is whether the applicant was discharged in 1983 for want of work or not. But we find that the applicant was sick and he left the work. Moreover the applicant has not produced any material to show that

27

he was retrenched for want of work. The applicant has not produced any tangible proof to the effect that he took permission from the authorities for absenting himself after 1983. After that he was re-engaged in 1988 and discharged in June, 1993. After June, 1993 he was not taken back on duty. This OA was filed on 22.3.96. Thus the applicant is out of service for over 3 years even after June, 1993.

8. The applicant submits that though he was engaged, he was paid without demanding signature from him before payment. Though the applicant submits that the verification whether he was engaged after June, 1993 or nor can be done if it is referred to Labour Court or Industrial Tribunal, this Bench cannot give any such direction. If the applicant wants to take up this case, he can do so in accordance with the rules.

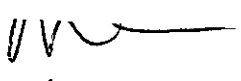
9. In the facts and circumstances of the case, it has to be held that there was a break in service after 1983. Hence the services rendered earlier to 1983 cannot be counted for the purpose of giving him temporary status. Similarly after 1993 he had left the service. There is no proof that he was retrenched for want of work after June, 1993. I am unable to accept the applicant's contention that his services for the period from 1988 to 1993 has to be counted as ^{the} ^{after 1993} ~~that~~ break was not due to him.

10. It is a fact that the applicant was a casual labourer under the Telecom Department since 1979. Hence his re-engagement should be viewed as an engagement of ex-casual labourer ^{by} ~~in~~ the department.

28


The applicant should be preferred in future if there is work and if casual engagement is resorted ^{to} from the Open Market, ⁱⁿ that case his case should be considered first, before considering any freshers from the open market. Applicant's case should also be considered for engagement in casual service in preference to re-trenched casual employees on that day who had put in less number of days of service compared to the applicant.

11. With the above direction, the OA is disposed of. No costs.


(R. RANGARAJAN)
Member (A)

Dated: 14th September, 1997.
Dictated in Open Court.

avl/


D. R. (J)

29
..6..

Copy to:

1. The Sub Divisional Engineer, Telecom, Tadipatri.
2. The Telecom District ~~Engineer~~ Manager, Ananthapur.
3. The Chief General Manager, Telecommunications, Hyderabad.
4. The Director General, Telecom, New Delhi.
5. One copy to Mr.C.Suryanarayana, Advocate,CAT,Hyderabad.
6. One copy to Mr.V.Bhimanna,Addl.CGSC,CAT,Hyderabad.
7. One copy to D.R(A),CAT,Hyderabad.
8. One duplicate copy.

YLKR

24/9/97

(8)

TYPED BY
COMPILED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD

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

AND

THE HON'BLE SHRI B. S. JAY P. R. MAHAR :
(M)(S)

Dated: 24/9/97

ORDER/JUDGEMENT

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

in

C.A.NO. 450/96

Admitted and Interim Directions
Issued.

Allowed

Disposed of with Directions

Dismissed

Dismissed as withdrawn

Dismissed for Default

Ordered/Rejected

No order as to costs.

YLKR

II Court

केन्द्रीय प्रशासनिक अधिकरण Central Administrative Tribunal भारत/DESPATCH 24 SEP 1997 हैदराबाद बेंच HYDERABAD BENCH
