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CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH :
AT HYDERABAD.

O.A. No. 724/96

DATE OF ORDER: 10th August, 1998.

Between :

S. Sundara Rao (SC),
Son of Jammayya, aged about 22 yrs,
Casual Mazdoor,
O/o Sub-Divisional Engineer, Primary & In.
Cables, Visakhapatnam. ... Applicant

A n d

1. The Sub-Divisional Engineer,
Primary & In. Cables,
Visakhapatnam-530 020.
2. The General Manager,
Visakha Telecom District,
Visakhapatnam-530 020.
3. The Director-General, Telecom,
(reptg. Union of India)
New Delhi- 110 001. ... Respondents.

Counsel for Applicant : Mr. C. Suryanarayana

Counsel for Respondents :: Mr. V. Vinod Kumar

CORAM :

HONOURABLE MR. H. RAJENDRA PRASAD, MEMBER (ADMINISTRATIVE)

HONOURABLE MR. B. S. JAI PARAMESHWAR, MEMBER (JUDICIAL)

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Contd....

O R D E R.

(Per Hon. Mr. B. S. Jai Parameshwar, Member (Judicial))

1. Heard Mr. C. Suryanarayana, learned counsel for the applicant and Mr. V. Vinod Kumar, learned Standing Counsel for the respondents.

2. This is an application under Section 19 of the Administrative Tribunals Act. The application was filed on 10.7.1996.

3. The applicant was engaged as a Casual mazdoor under the JTO, Air Conditioning and Electrical Workshop, Visakhapatnam from 1.9.1992 to 31.7.1992. He was again engaged from 1.8.1992 to 31.12.1992 under the Assistant Engineer, Telex, Visakhapatnam. He submits that he was transferred to the office of the Assistant Engineer, Cables, Vizag and he worked under the said Assistant Engineer upto 30.4.1995. He submits that he was later shifted to S.D.E. Primary and Incables, Visakhapatnam from 1.5.1995 and he has been working since then under the respondent No.1. The applicant submits that he belongs to S.C. community.

4. He relies upon the decision of the Hon'ble Supreme Court in the case of Daily Rated Casual Labour in P&T Deptt. vs. Union of India and others (AIR 1987 SC 2342). He also relies on the Casual Labour (Grant of Temporary Status and Regularisation) Scheme, 1989. He has filed this O.A. for a direction to the respondent authorities to show the applicant's name in the seniority list of Casual Mazdoors of Telecom Department, Visakhapatnam, and consequent to grant him temporary status besides considering his case for absorption in the regular establishment as per his turn in the seniority list either in the posts of general category or at least in the

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reserved posts.

5. The respondents have filed their counter stating that the applicant was engaged on contract basis to perform the scavanging work in the office of the General Manager, Telecom District, Visakhapatnam on a fixed remuneration of Rs.650/- per month; that he was neither recruited on full-time/part-time basis nor his case was sponsored by the Employment Exchange. The services of the applicant were hired for contingent nature of works such as, 'scavanger'; that the applicant was not engaged as a Casual labourer; that he is not entitled to the benefits of the Scheme,1989; that the applicant was only a contract labourer; that the applicant cannot claim for grant of temporary status; that the O.A. has no merits and the same is liable to be dismissed.

6. The applicant claims that he has been engaged as a Casual Mazdoor under the respondent-department; whereas the respondent-department disputes the said claim on the ground that the applicant was a contract labourer engaged to do the work on a fixed remuneration of Rs.650/- per month. The respondents appear to have not taken note of the ACG 17 produced by the applicant which are at Annexure A.2. This Tribunal cannot rely on the same and draw a conclusion that the applicant was a Casual Labourer. We do not know whether Casual labourers were on ACG 17. Thus the respondents state that the applicant was engaged on contract basis on a fixed remuneration of Rs.650/- per month. They have not produced any document to substantiate their version that the applicant has been working ^{or not} ~~on Contract basis~~ since September,1991.

7. As contended by the respondents, the applicant does not come under Casual Labour Scheme 1989. The said

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scheme is applicable to those casual labourers who were engaged prior to 22.6.1988.

8. The applicant is still continuing to work under the respondents. The respondents may, after scrutinising the original documents of ACG 17 (Annexure A2) and considering his length of service since 1991, take a decision as to whether the applicant can be continued in the department as a regular employee. The respondents may well take note of the principle enunciated by the Hon'ble Supreme Court in the case of Daily Rated Casual Labour employed under P.&T. Department v. Union of India cited above.

9. The applicant may, if so advised, submit a detailed representation for regularisation of his services within 15 days from the date of receipt of a copy of this order. The respondents shall, on receipt of the representation, consider the case of the applicant sympathetically having regard to the fact that he had been in service since last 7 years.

10. Till the disposal of the representation of the applicant, ^{and/or} so long as the work is available in the department, we direct the respondents that the applicant shall not be disengaged from service. If, in any eventuality, the respondents are to take a decision to terminate the services of the applicant, then the applicant shall be given preference than the outsiders whenever the work is available or the nature of work entrusted to the applicant is available. We feel that there is no remote chance of the work of the respondent-^{we} department coming to an end. Hence feel and trust that the respondents may not take a hasty decision for terminating the services of the applicant.

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11. With the above directions, the O.A. is disposed of. No order as to costs.

B.S.Jai Parameshwar
(10.8.98)
(B.S.JAI PARAMESHWAR)
MEMBER(JUDICIAL)

H.Rajendra Prasad
(H. RAJENDRA PRASAD)
MEMBER(ADMINISTRATIVE)

DATED THE 10TH AUGUST, 1998.

DJ/

Deputy Registrar

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O.A. 724/96

To

1. The Sub Divisional Engineer,
Primary & In.Cables, Visakhapatnam.
2. The General Manager,
Visakha Telecom Dist. Visakhapatnam.
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.V.Vinod Kumar, Addl.CGSC CAT.Hyd.
6. One spare copy.
7. One copy to Mr. HBSJP.M. (J) CAT.Hyd.
8. One copy to DR(A) CAT.Hyd.

pvm.

18/8/98
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)

The Hon'ble Mr. B.S.Jayaramaiah, M.C.J.
DATED: 10-8-1998.

~~ORDER/JUDGMENT~~

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

in
O.A.No. 724/96

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.

pvm.

