

(13)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH
AT HYDERABAD.

.. Date: March 25, 1997.

O.A.No. 335 /97.

Between:

A.Nageswara Rao.

Applicant.

And

1. The Sub Divisional Officer,
Telecom, Srikakulam.
2. The Divisional Engineer,
Telecom, Srikakulam.
3. The Chief General Manager,
Telecommunications, I.P.,
Hyderabad.

Respondents.

Counsel for the Applicant

Shri M.Keshava Rao.

Counsel for the Respondents:

Sri V.Rajeswara Rao.

CORAM:

Hon'ble Sri R.Rangarajan, Member (.)

Hon'ble Sri B.S. Jai Parameshwara, Member (J)

JUDGMENT:

(per HON'BLE SHRI H. RANGARAJAN, MEMBER (A))

..

Heard Sri M.Keshava Rao for the applicant and

Shri V.Rajeswara Rao for the respondents.

The applicant earlier worked as Casual Mazdoor and
he was retrenched for want of work. Against that retrenchment
he filed O.A.330/95 before this Tribunal. That O.A. was
disposed of by an Order dated 16--3--1995, The direction

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given to the 1st respondent in that O.A., was to re-engage the applicant as Casual Mazdoor in preference to the freshers from open market when the need for casual labourers arise after that date. In pursuance of that direction it was stated that the applicant was engaged as a casual Mazdoor on 1-1-1996 at the instance of Respondent No.2 to work under Respondent No.1.

By the impugned Proceedings dated 28-2-1997 (Annexure A-2 to O.A.,) the applicant was sought to be retrenched after the expiry of the notice period i.e., one month after the issue of Impugned order dated 28-2-1997. It is stated in the impugned order that the applicant is the juniormost casual mazdoor and since there was no work for his further continuance, it was decided to retrench him from the Department.

The applicant now states that he is not the juniormost and there are number of juniors in other sub-divisions. He also relies on the Circular No. TARC/20-1/Rlgs dated 18-11-1992 (Annexure A-III) that the seniority lists of ~~sen~~ casual labourers/temporary status mazdoors are maintained on Divisionwise basis based on the number of days of their service for the purpose of absorption of the seniormost casual labourers against the vacancies in Group-D posts in the Division; in otherwords he submits that the Division

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is the Unit for counting the seniority. He further submits that there are number of juniors to him in other sub-divisions and hence it cannot be said that he is the juniormost and has to be retrenched due to 'No work'

This O.A., is filed to set aside the impugned Proceedings dated 28-2-1997 by holding that they are arbitrary, illegal and contrary to rules and decisions and for consequential direction to allow him to continue as a casual labourer in the Department under Respondent No.1.

The direction given in the earlier O.A., viz., O.A.330/95 is very clear. The applicant has to be engaged as a fresher from 1-1-1996 and hence his seniority counts only from that date onwards on the basis of the number of days of service put in by him thereafter. Any casual mazdoor engaged afresh after 1-1-1996 will rank junior to the applicant if the number of days of service put in by them is less than the number of day of service put in by the applicant. The Department has definite guidelines and rulings in regard to the maintenance of seniority lists. It is also stated that the applicant is being retrenched because of "No work". Hence, it is necessary that in such circumstances only the juniormost casual labourer, junior to the applicant, if any, only

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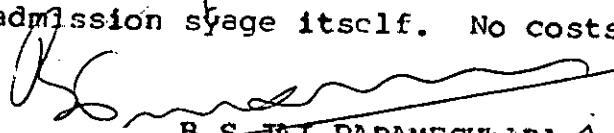
has to be retrenched.


In the facts and circumstances of the case following direction is given:

"If there is any Casual Mazdoors engaged after 1-1-1996 and they happen to be juniors to the applicant in the appropriate seniority unit due to the fact that they have put in less number of days service compared to the applicant, the Respondent No.1 should reconsider the legality of the issuance of the impugned proceedings dated 28--2--1997. If there is no junior to the applicant as fresher in terms of the direction given above, then the applicant cannot insist upon to continue him even if there is no work.

A scrutiny of the position has to be done by the Respondent No.1 before implementing the impugned notice dated 28--2--1997. If Respondent No.1 comes to the firm conclusion that the applicant is the juniormost as per the directions given above, then the applicant may be discharged from the date of such decision taken. However, the file should contain the recorded details in this connection.

With the above directions, this O.A., is disposed of at the admission stage itself. No costs.


B.S. JAI PARAMESHWARA
Member (J)


R. RANGA RAJAN,
Member (A)

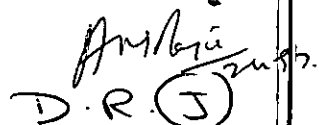
Date: March 25, 1997.

C.C., by day after tomorrow (27.3.1996)

(A.E.)



25/3/97.


D.R. (J)

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Copy to:

1. The Sub Divisional Officer, Telecom, Srikakulam.
2. The Divisional Engineer, Telecom, Srikakulam.
3. The Chief General Manager, Telecommunications,
A.P., Hyderabad.
4. One copy to Mr.M.Kasava Rao, Advocate,CAT,Hyderabad.
5. One copy to Mr.V.Rajeswara Rao,Addl.CGSC,CAT,Hyderabad.
6. One copy to D.R(A),CAT,Hyderabad.
7. One duplicate copy.

YLKR

30/4/97

TYPED BY
COMPILED BY

CHECKED BY
APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

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

AND

THE HON'BLE SHRI B.S. JAI PARAMESHWAR:
M(J)

DATED:

25/3/97

ORDER/JUDGEMENT

R.A./C.P/M.A.No.

O.A.NO. 335/97 in

ADMITTED AND INTERIM DIRECTIONS ISSUED
ALLIED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS.

II COURT

YLKR

30/4/97

केन्द्रीय प्रशासनिक अधिकरण Central Administrative Tribunal प्रेषण / DISPATCH 28 APR 1997 हैदराबाद न्यायपीठ HYDERABAD BENCH
