

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A. 548 OF 1997

Dated, the 14th October, '98.

BETWEEN :

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|-------------------------|-----------------------|
| 1. T. Hanumanthu | 14. B. Sudhakar Reddy |
| 2. H. Vijaya Kumar | 15. S. Ameer Basha |
| 3. J. Siva Sai Kumar | 16. M. Mohd. Hussain |
| 4. R. Prasad | 17. S. Shahe Alam |
| 5. T.R. Srinivasulu Rao | 18. A. Venugopala Rao |
| 6. A. Jagadish Kumar | 19. D. Rajanujaneyulu |
| 7. G. Venu Gopal | 20. D. Chandra Sekhar |
| 8. S. Madan Mohan | 21. J. Guru Prasad |
| 9. P. Sivaramaiah | 22. T. Shankaraiah |
| 10. V. Chakrapani | 23. S. Nazeer Hussain |
| 11. J. Raghavendra Rao | 24. S. Ravi |
| 12. A. Gopal | |
| 13. K. Rajkumar | |

... Applicants

A N D

1. The Telecom Commission,
Rep. by its Chairman,
Telecommunications,
New Delhi.
2. The Director General,
Telecommunications,
New Delhi.
3. The Chief General Manager,
Telecommunications,
A.P. Circle,
Abids,
Hyderabad.
4. The Telecom District Manager,
Department of Telecom,
Kurnool.

... Respondents

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COUNSELS :

For the Applicants : Mr. V. Venkateswara Rao
For the Respondents : Mr. V. Rajeswara Rao.

CORAM:

THE HON'BLE MR. H. RAJENDRA PRASAD, MEMBER (ADMIN)

THE HON'BLE MR. B. S. JAI PARAMESHWAR, MEMBER (JUDL)

O R D E R

(PER : HON'BLE MR. B. S. JAI PARAMESHWAR, MEMBER (J) .

1. Heard Mr. V. Venkateswara Rao, Learned Counsel for the applicants and Mr. V. Rajeswara Rao, Learned Standing Counsel for the Respondents.
2. There are 24 applicants in this O.A. They are all Casual Labourers in the Telecom Department. The details of their dates of engagement and places of work are described in Annexure-I to the O.A. They were engaged between 27.11.86 and 19.7.94. They submit that the works entrusted to them are those of a Group 'D' employee in the department. They are being paid wages once in a month equivalent to the pay and allowances of a Group 'D' employee in the department. They submit that the works entrusted to them are of continuous and perennial nature. They rely on the Casual Labourers (Grant of Temporary Status and Regularisation)Scheme 1989.
3. The applicant No.12, A. Gopal submits that he was initially appointed w.e.f. 24.4.88 and the applicant No.13, submits that he was engaged w.e.f. 27.11.86.

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4. The DGM(Admin) Telecom Circle A.P., Hyderabad issued instructions through his letter dt. 31.7.95 to replace the Casual Labourers by entrusting the work to Contract Labourers by inviting tenders from outside agencies. The applicants submit that the said instructions are illegal as the Contract system has not been in practice in the Telecom Department. They submit that they had challenged the said instructions in O.A. 777/96 before this Hon'ble Tribunal; that on 18.6.1966, this Tribunal directed them to submit a representation to the respondent No.2 and accordingly they submitted the representations; that in the said O.A. this Tribunal directed the respondents to consider the representations and continue them as Casual Labourers till the representations are disposed of and for a reasonable period thereafter.

5. That as per the directions of this Tribunal they submitted representations dt. 24.7.96 at Annexure-VI to the O.A.

6. The respondent No.3 considered the representations and replied the same by his reply dt. 7.4.97 (Annexure-VII). In the reply, it is stated that the applicants were not engaged as Casual Labourers but were awarded a Contract for a specific work to be performed either by them or by their agents for a specified amount; that the said contract was renewable by either party with due notice; that they were not eligible for regularisation under the Scheme 1989; that the contract could be terminated at any time and as such they were not eligible for regularisation in the department.

7. They relied on the Casual Labour (Grant of Temporary Status and Regularisation) Scheme 1989.



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8. They relied on the decision of the Hon'ble Supreme Court in the Daily Rated Casual Labourers in P&T Department Vs. Union of India reported in AIR 1987 SC 2343 and also decision of the Principal Bench of this Tribunal in O.A. 529/88 dt. 4.5.98. They challenge that the Department of Posts has extended time upto 10.9.93 for regularisation of Casual Labourers in the Department.

9. They have filed this O.A. for direction to the respondents to grant them temporary status under the Scheme 1989 by declaring the letter No.TA/STB/20-8/KNL/96 dt. 11.4.97 issued by the R-3 as illegal, arbitrary and unconstitutional and to quash the same with all consequential benefits.

10. The respondents have filed the counter. They have explained the circumstances under which they engaged certain individuals to perform the works like sweeping, cleaning, sea-venging and delivering telegrams on contract basis. They submit that there are small Telegraph Offices in the rural areas in the State of Andhra Pradesh; that those offices do not justify posting of a regular Group 'D' employee; that there are such 400 Contract Labourers in the State of Andhra Pradesh; that they were engaged on contract basis; that the work entrusted to them can be performed by the applicants or their representatives; that the applicants are not entitled for regularisation under the Scheme, 1989; that they also rely on the decision of this Tribunal in O.A. No.230/96 decided on 26.6.1996, O.A. No.559/96 decided on 10.12.97, O.A. No.382/97 decided on 26.12.97 and also O.A.1080/95 decided on 30.4.98.

11. The case of the applicants is for regularisation of their services under the Scheme 1989. They contend that they are casual labourers of the department. However, the respondents dispute the applicants' status. The respondents

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submit that they are the contract labourers. They have explained the circumstances under which they entered into contract with the applicants.

12. In the absence of any material on record, we feel it may not be proper to consider the status of the applicants. The respondents have not produced the proforma of the contract to ascertain whether they are the contract labourers. The applicants have also not produced any material documents to substantiate their claim that they are casual labourers. However, the respondents admit the services being rendered by the applicants in the Department.

13. From Annexure-I to the O.A. it is disclosed that the applicants were engaged between July, 1988 and January, 1996. Therefore, the applicants cannot claim benefit under the Scheme, 1989.

14. This Tribunal considered the details of the scope and ambit of the Scheme, 1989 in O.A. No.1080/95 decided on 30th April, 1998. In the said O.A. this Bench gave directions to the respondents to consider the case of the casual labourers or contract labourers who were engaged after 22.6.1988. We feel, the directions given in O.A. No.1080/95 are applicable to the applicants in this O.A.

15. The applicants No.12 and 13 have furnished the service particulars in Annexure-I to the O.A. It is disclosed that they were engaged as Casual Labourers from 24.4.88 and 27.11.86. That means they were engaged before the Scheme 1989 came into force. They were engaged before 22.6.88. Therefore, in our humble opinion, the respondents are liable to consider the ^{ly}case for regularisation under the Scheme, 1989.

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16. Hence, we feel it proper to issue ~~to~~ the following directions :

(a) The applicants No.12 and 13 may if so advised submit a detailed representation to the proper respondent authorities for regularisation of the services under the Scheme, 1989. They are directed to furnish substantial documentary proof in support of their engagement since 1988 i.e. prior to 22.6.88. They are directed to submit a representation within one month from the date of receipt of a copy of this order.

(b) If such a representation is received from the applicants No.12 and 13, then the proper respondent authorities shall consider the same, verify the records maintained in his office and take a decision as to the regularisation of their casual service as per the Scheme, 1989.

(c) The respondents shall follow the directions issued in ~~O.A. 1080/95 dt. 30.4.1998.~~ and in O.A. 1258/97 dated. 9.9.98.

(d) The respondents shall not disengage the services of the applicants so long as the work is available with them. In case of any eventuality of the respondents taking a decision to dispense with the services of the applicants, then they shall follow the prescribed procedure of issuing notice to each of the applicants and enter their names in the live register of re-trenched casual labourers seniority-wise and provide them work whenever the work is available in the department, in preference to the freshers.



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


(B.S. JAI PARAMESHWAR)
MEMBER (J)


(H. RAJENDRA PRASAD)
MEMBER (A) ✓

Dated, the 14th October, 1998.


DR 14-10-98

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Copy to:

- The Chairman.
- 1. The Telecom Commission, Telecommunications, New Delhi.
- 2. The Director General, Telecommunications, New Delhi.
- 3. The Chief General Manager, Telecommunications, New Delhi.
- 4. The Telecom District Manager, Dept. of Telecom, Kurnool.
- 5. One copy to Mr.V.Venkateswara Rao, Advocate, CAT, Hyderabad.
- 6. One copy to Mr.V.Rajeswara Rao, Addl.CGSC, AT, Hyderabad.
- 7. One copy to D.R(A), CAT, Hyderabad.
- 8. One copy to HBSJP, CAT, Hyderabad.
- 9. One duplicate copy.

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29/10/98 (9)

II COURT

TYPED BY
COMPALED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

H. Rajendra Prasad
THE HON'BLE SHRI ~~R. RAJENDRA PRASAD~~ : M(A)

AND

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

DATED: 14/10/98

ORDER/JUDGMENT

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

in

C.A.NO. 548/97

~~ADMITTED AND INTERIM DIRECTIONS
ISSUED~~

~~ALLOWED~~

~~DISPOSED OF WITH DIRECTIONS~~

~~DISMISSED~~

~~DISMISSED AS WITHDRAWN~~

~~ORDERED/REJECTED~~

~~NO ORDER AS TO COSTS~~

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