

51

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

O.A. 637 OF 1997

Dated, the 24th August 98

BETWEEN :

1. N. Chandrasekhar Rao
2. V. Pakkeraiah
3. P. Parameswara Reddy
4. V. Anjaneyulu
5. U. Rajasekhar
6. P. Venkateswarlu

... 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, AP Circle, Abids, Hyderabad.
4. The Telecom District Manager, Department of Telecom, Ananthapur.

... Respondents.

COUNSELS :

For the Applicants : Mr. V. Venkateswara Rao
For the Respondents : Mr. V. Vinod Kumar

CORAM :

THE HON'BLE MR. H. RAJENDRA PRASAD, MEMBER (ADMINISTRATION)
THE HON'BLE MR. B. S. JAI PARAMESHWAR, MEMBER (JUDICIAL)

J

Centd..2

-:2:-

ORDER

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

1. Heard Mr. V. Venkateswara Rao, Ld. Counsel for the applicants and Mr. V. Vinod Kumar, Ld. Counsel for the respondents.

2. This is an application filed under Sec. 19 of the Central Administrative Tribunals Act, 1985. The application was filed on 6.5.97.

3. There are 6 applicants in this O.A. They were engaged as Casual Labourers in the Telecom Department. Their dates of engagement and place of work are detailed in Annexure-A1 to the O.A. They were engaged between 8.9.88 to 18.4.95. They submit that they are performing the duties of Group 'D' post in the department, that the work entrusted to them is continuous and perennial in nature, that they have worked 240 days in every year, and that they are paid wages, once in a month and equivalent to pay and allowances of a Group 'D' employee in the Department.

4. They rely on the Casual Labour (Grant of Temporary Status and Regularisation) Scheme, 1989. They submit that the Deputy General Manager (Administration), Telecom, A.P. Circle, Hyderabad, vide his letter dt. 31.7.95 issued instructions to the respondent to replace the Casual Labourers by Contract Labourers by inviting tenders from outside agencies, that the Contract Labour System is not practised in the Telecom Department, that the instructions of the DGM (Admin), Telecom, A.P. Circle, Hyderabad in letter dt. 31.7.95 are illegal that they had approached this Tribunal in O.A. 890/96, that on 15.7.96, the Tribunal was pleased to direct

the respondents not to disengage them from their casual

Contd...3

N

-: 3 :-

service till their representations are disposed of and for a reasonable period of time thereafter.

5. They submit that they were given 6 weeks time to submit the individual representations. Accordingly, they submitted the representations on 12.8.96.

6. The respondent No.3, considered the representations and ^{issued} passed the impugned letter dt. 10.4.97. (Page 22 of the O.A.) informing the applicants that they were not engaged as Casual Labourers but were awarded a contract for specific work to be performed either by them or by their agents for a specified amount. The contract was renewable every month and could be terminated by either party with due notice and that they were not eligible for regularisation under the Scheme 1989.

7. They submit that the letter dt. 10.4.97 of the respondent No.3 was served on them on 21.4.97.

8. They also bring to our notice that the Department of Posts have extended the Scheme of 1989 to ~~these~~ Casual Labourers who were engaged in service upto 10.9.93.

9. They rely upon the decision of the Hon'ble Supreme Court in the case of the Daily Rated Casual Labourers in the P&T Department Vs. Union of India and Others (reported in AIR 87 SC Page 2343) and on the decision dt. 4.5.88 in O.A. 529/88 on the file of the Principal Bench, New Delhi.

9. Hence, they have filed this O.A. for direction to the respondents to grant them temporary status

R

-: 4 :-

and regularisation of services by extending the Scheme of 1989 to them and by declaring the impugned letter dt. 10.4.1997 issued by R-3, as illegal, arbitrary, unconstitutional and to quash the same with consequential benefits.

10. The respondents have filed their counter explaining the circumstances under which they decided to entrust the work of sweeping, forking, cleaning, scavenging and delivering of telegram messages in rural offices where the work load was far less ~~for~~ ^{to the} contract labourers. They submit that they made sincere efforts to entrust the work to an outside agency but they could not find any outside agency and that therefore, they were compelled to entrust the work on contract basis to individuals, that there are nearly 400 such contract labourers engaged in various Telegraph Offices and Telecom Centres in A.P. Telecom Circle, that the Scheme of 1989 is not applicable to the applicants, that the said Scheme came into force on 1.10.89, that the Scheme is applicable to those casual labourers who were in service on 1.10.89, that those who had put in 240 days of service in any particular year, that those who were sponsored by the employment exchange, ^{and}, that the applicants cannot claim the benefits for regularisation under the said Scheme.

11. They also rely on the decisions of this Tribunal in O.A. 230 of 1996 decided on 26.6.97, in O.A. 559/96 decided on 10.12.96 and in O.A. 382/96 decided on 26.12.97 and in O.A. 1080/95 decided on 30.4.98.

Jr

Contd...5

:- 5 :-

12. The applicants submit that they were engaged on casual basis. On the other hand the respondents dispute the status of the applicants by contending that they are contract labourers. The respondents have not produced any material to come to the conclusion that the applicants are, in fact, contract labourers. The respondents should have produced the documentary proof to substantiate their contention. However, from the contentions of both the parties, it is clear that the applicants are engaged in service in the respondent's department. They have been engaged since 1988.

13. By an interim order dt. 9.5.97, the respondents were directed not to disengage the applicants from their casual service, if there is work, and need for re-engagement in preference to freshers from the open market. Thus by virtue of the interim order the applicants have been continuing in the service in the respondent's department.

14. The contention of the respondents is that the Scheme 1989 is not applicable to the applicants has to be accepted. The applicants, who were in fact, engaged after 22.6.88. All the applicants cannot claim any benefit under the Scheme 1989.

15. The applicants submit that the Department of Posts had extended the Scheme upto 10.9.93 to provide certain benefits to Casual Labourers, who were engaged subsequent to 22.6.88.

16. This Tribunal in O.A. 1080/95 considered in depth the Scheme 1989 and held that these Casual Labourers who were engaged after the cut off date i.e. 22.6.88, that they are not casual labourers for regularisation under the Scheme 1989, and gave certain

-: 6 :-

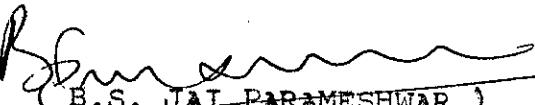
directions to the department to evolve a scheme for regularisation of the casual labourers, who are engaged after 22.6.88. We feel that the direction in O.A. 1080/95 is clearly applicable to the facts and circumstances of the case and the respondents may follow the direction given in that O.A. in this case also.

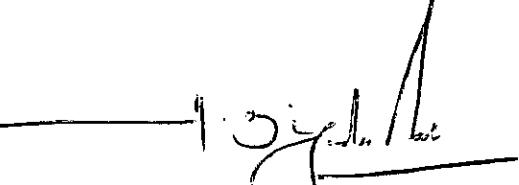
17. Hence, we issue the following directions :

(a) the respondents shall not disengage the applicants from the service so long as the work is available in the department; and

(b) in case, they decide to dispense with the casual service of the applicants, then they shall follow the prescribed procedure of giving ~~a~~ due notice to the applicants and the respondents shall enter the names of the applicants in the live register of the retrenched casual labourers and engage them as and when the work is available in the department as per the seniority in preference to freshers.

18. With the above direction this O.A. is disposed of. No costs.


B.S. JAI PARAMESHWAR)
MEMBER (J)
24.8.98


(H. RAJENDRA PRASAD)
MEMBER (A)

Dated, the 24th August, 1998.

CS


Deputy Registrar

D.A. 637/97.

To

1. The Chairman, Telecom Commission, Telecommunications, New Delhi.
2. The Director General, Telecommunications, New Delhi.
3. The Chief General Manager, Telecommunications, A.P.Circle, Abids, Hyderabad.
4. The Telecom Dist. Manager, Dept. of Telecom, Anantapur.
5. One copy to Mr. V. Venkateswar Rao, Advocate, CAT. Hyd
6. One copy to Mr. V. Vinod Kumar, Addl. CGSC. CAT. Hyd.
7. One copy to HBSJP.M.(J) CAT. Hyd.
8. One copy to Mr. DR(A) CAT. Hyd.
9. One spare copy.

pvm.

27/9/98
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.Jaipal Kumar, M.C.J.
DATED: 24-8-1998.

~~ORDER/JUDGMENT~~

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

O.A.No. 637/97 in

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.

