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CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH :
AT HYDERABAD.

O.A.No.638/97.

Date of Order:- 27-8-1998.

Between :

1. S.A. Rahiman
2. D. Suresh Babu
3. T. Venkat Swamy
4. Md. Arif
5. P. Rajasekhar
6. V. Venkataiah
7. M. Madhava Rao
8. Ch. Venkatesh
9. K. Thippanna
10. M. Venkatesh
11. B. Venkata Subbaiah
12. N. Satyanarayana

... Applicants.

A n d

1. The Telecom Commission,
represented by 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,
Mahboobnagar.
5. The Sub-Divisional Engineer(Admn.),
O/o Telecom District Manager,
Mahbubnagar. - 509 050.

... Respondents

Counsel for Applicants : Mr. V. Venkateswara Rao
Counsel for Respondents : Mr. V. Vinod Kumar, CGSC

Coram :

The Honourable Mr. H. Rajendra Prasad, Member (Admn.)

The Honourable Mr. B.S.Jai Parameshwar, Member (Judl.)

O R D E R.

(per Hon. Mr.B.S.Jai Parameshwar, Member (J))

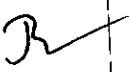
1. Heard Mr. V.Venkateswara Rao, learned counsel for the applicants and Mr. V. Vinod Kumar, learned Standing Counsel for the respondents.

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2. This is an application under Section 19 of the Administrative Tribunals Act. The application was filed on 6.5.1997.

3. There are 12 applicants in this O.A. They were engaged as casual labourers in the respondent- department. The dates of their engagement and places of work are detailed in Annexure-I to the O.A. They were engaged ~~During~~ the period between February, 1993 and February, 1995. They submit that they were entrusted with the duties of a Group 'D' employee in the department. They have been working continuously from the respective dates of their engagement. They submit that they were paid wages once in a month equivalent to pay and allowances of a Group 'D' employee in the department. They submit that the works entrusted to them are of continuous and perennial in nature. They rely on the Casual Labourers(Grant of Temporary Status and Regularisation) Scheme, 1989.

4. They submit that the Deputy General Manager(Administration) Telecom Circle, A.P., Hyderabad by his letter dated 31.7.1995 issued instructions to the respondents to replace the ~~casual~~ labourers by contract labourers by inviting tenders from outside agencies. The applicants being aggrieved by such instructions of the Deputy General Manager, ~~had~~ approached this Tribunal in O.A. Sr.No.990/96. This Tribunal dismissed the said O.A. holding the same as premature. They submit that as per the instructions of the Deputy General Manager(Administration), the respondent No.5 issued a letter dated 1.5.1997 informing the applicants that the engagement of contract labourers would be stopped forthwith. They submit that the contract labour system has not been the practice in the Telecom department. They submit that the respondents have illegally treated them as contract labourers. They rely on the decision of the Hon'ble Supreme Court in the case of Daily Rated Casual Labourers in P & T Department v. Union of India and others(AIR 1987 SC 2342) and the decision dated 4.8.1988 in O.A.No.529/88 of the Principal Bench, C.A.T., New Delhi.



5. The applicants have filed this O.A. praying to direct the respondents to grant temporary status and regularisation of their services as per the Scheme, 1989 by declaring the impugned letter dated 1.5.1997 as illegal, arbitrary and unconstitutional and to quash the same with all consequential benefits.

6. The respondents have filed their counter stating the circumstances under which they entrusted the menial works like sweeping, frashing, watering, and scavanging in small Telecom Centres in the State of A.P. on contract basis. They submit that there is no justification for posting a regular employee in those centres; that even the demand for long distance telephone calls in those offices is very less. They submit that there are about 400 such contract labourers in the Telecom Circle, Andhra Pradesh. They submit that the Scheme 1989 is not applicable to the applicants as they were engaged in between 1993 and 1995. They submit that the Scheme 1989 is applicable to those casual labourers who were in service as on 1.10.1989; those who had completed 240 days of continuous service in a year and those who were sponsored through Employment Exchange. They submit that the work entrusted to the applicants is only 6 hours a day.

They rely on the order dated 10.12.1997 in O.A.No. 559/96, order dated 26.12.1997 in OA 382/96 and order dated 30.4.1998 in OA No. 1080/95.

7. The applicants submit that they were engaged on casual basis. The respondents dispute the said fact and contend that the applicants are contract labourers. The respondents have not produced any document to ascertain the status of the applicants. If the applicants had entered into any contract in writing, the respondents could have very well produced the proforma of the contract. Likewise the applicants have not produced anything to show that they were engaged on casual basis. However, the respondents admit the applicants' services in the department. In the absence of convincing

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material we are not in a position to arrive at a definite conclusion that the applicants are either casual labourers or contract labourers.

8. The Scheme 1989 came into force on 1.10.1989. The scheme is applicable to those casual labourers who were in service as on 1.10.1989, those who had completed 240 days of continuous service in a year and those who were sponsored by the Employment Exchange.

9. The applicants were engaged in between 1993 and 1995. Hence the question of applying the scheme 1989 to the applicants does not arise at all. In O.A.No.1080/95 decided on 30.4.1998, this Tribunal considered in detail the Scheme 1989 and held that the said scheme is applicable to those casual labourers who were engaged prior to 22.6.1988.

10. By an interim order dated 9.5.1997 the respondents were directed that if there was no work and on that basis the applicants were to be disengaged, they should be reengaged if there was work and need for reengagement in preference to freshers from the open market. Thus the applicants have been continuing to serve the department.

11. In view of the above, we issue the following directions to the respondents :

- (a) The directions given in O.A.No.1080/95 shall be followed.
- (b) The respondents shall not disengage the services of the applicants if there is work in the department. In case the respondents take a decision to dispense with the services of the applicants, then the respondents shall follow the prescribed procedure of issuing a prior notice and enter ^{their} ~~his~~ name in the live register of the retrenched casual labourers senioritywise and provide work to the applicants whenever the work is available in the department.

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

B.S. Jai Parameshwar
(B.S. Jai Parameshwar)
Member (J) 27.8.98

H. Rajendra Prasad
(H. Rajendra Prasad)
Member (A)

Dated the 27th August, 1998.

Deputy Registrar
27.8.98

DJ/

29/9/98
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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. Jagadeesanwar, M(A)

DATED: 27-8-1998.

ORDER/JUDGMENT

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

in

O.A.No. 638/97

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.

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