

47

CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH : HYDERABAD.

O.A.No.653/97

Date of Order :- 24 -8-1998.

Between :

Md.Farooq, s/o Abdul Rahman,  
aged about 20 years,  
Occ: Casual Labourer,  
Telecom Centre, Gadwal,  
R/o Gadwal.

... Applicant

And

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,  
Mahboodnagar.
5. The Sub-Divisional Engineer(Admn.),  
O/o Telecom District Manager,  
Mahboobnagar.- 500 050.

... Respondents

Counsel for applicants :- Mr. V. Venkateswara Rao

Counsel for respondents :- Mr. N.R. Devaraj, Sr.CGSC

Coram :

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

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

O R D E R.

B.S.Jai Parameshwar, Member (J)

Heard Mr. V. Venkateswara Rao, learned counsel for the applicant and Mr. N.R. Devaraj, learned Standing Counsel for the respondents.

2. This is an application under Section 19 of the Administrative Tribunals Act. The application was filed on 19.5.1997.

3. The applicant was engaged as a casual labourer in the Telecom Department on 1.1.1996. He submits that

he has been performing the duties of a Group D employee in the department. He has been continuously engaged since 1.1.1996. He submits that the work entrusted to him is of continuous and perennial nature. He has been paid wages equivalent to pay and allowances of a Group D employee in the department. The applicant relies on the Casual Labourers (Grant of Temporary Status and Regularisation) Scheme, 1989 (page-11 of the OA) and also 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).

4. The grievance of the applicant is 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 applicant submits that the said instructions are illegal. He submits that the contract labour system has not been in the practice in the telecom department. He submits that the respondents have treated him as a contract labourer.

5. Pursuant to the instructions of the D.G.M. (Admn.) the respondent No.5 issued a notice dated 1.5.1997, a copy of which is at Annexure-III at page 18 of the OA. In the said letter the respondent No.5 informed that as per the instructions of the DGM, engagement of contract labourers should be stopped and that for attending to the sundry works, like sweeping, frashing, watering and scavanging contract on service on event basis should be engaged and not on hourly basis; and that for delivery of telegrams, regular mazdoors may be diverted and utilised at the Telecom Centres.

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6. The applicant relied on the order dated 4.8.1988 passed in OA No.529/88 by the Principal Bench, New Delhi. He further submits that the Department of Posts have extended the cut-off date for regularisation of the casual labourers upto 10.9.1993.

7. The applicant has filed this O.A. praying for a direction to the respondents to grant temporary status and regularisation of the services of the applicant by extending the Scheme, 1989 by declaring the impugned letter dated 1.5.1997 issued by the respondent No.5 as illegal, arbitrary and unconstitutional and to quash the same with all consequential benefits; such as, the arrears of pay and allowances and seniority and promotion.

8. The respondents have filed the 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 of <sup>for</sup> 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 applicant as he was engaged in the year 1996. 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 applicant 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.

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9. The applicant submits that he was engaged on a casual basis. The respondents dispute the said fact and contend that the applicant is a contract labourer. The respondents have not produced any document to ascertain the status of the applicant. If the applicant had entered into any contract in writing, the respondents could have very well produced the proforma of the contract. Likewise the applicant has not produced anything to show that he was engaged on casual basis. However, the respondents admit the applicant's services in the department. In the absence of convincing material we are not in a position to <sup>arrive at</sup> ~~give~~ a definite conclusion that the applicant is either a casual labourer or a contract labourer.

10. 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.

11. The applicant was engaged in the year 1996. Hence the question of applying the scheme 1989 to the applicant does not arise at all. In OA 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.

12. By an interim order dated 20.5.1997 the respondents were directed not to discharge the applicant if there was work in the department. Thus the applicant has been continuing to serve the department.


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

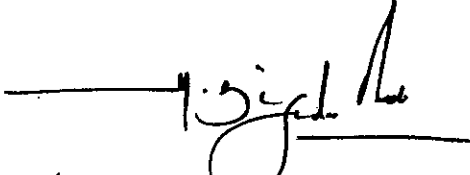
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(a) The directions given in O.A.No.1080/95 shall be followed.

(b) The respondents shall not disengage the service of the applicant if there is work in the department. In case the respondents take a decision to dispense with the services of the applicant, then the respondents shall follow the prescribed procedure of issuing a prior notice and enter his name in the live register of the retrenched casual labourers senioritywise and provide work to the applicant whenever the work is available in the department.

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

  
(B.S. Jai Parameshwar)  
Member (J)  
24.8.98

  
( H. Rajendra Prasad)  
Member (A)

Dated the 24<sup>th</sup> August, 1998.

DJ/

  
Deputy Registrar

O.A.653/97.

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, Mahaboobnagar.
5. The Sub Divisional Engineer(Admn.)  
O/o Telecom Dist.Manager, Mahaboobnagar-050.
6. One copy to Mr.V.Venkateswar Rao, Advocate, CAT.Hyd.
7. One copy to Mr.N.R.Devraj, Sr.CGSC. CAT.Hyd.
8. One copy to HBSJP.M.(J) CAT.Hyd.
9. One copy to DR(A) CAT.Hyd.
10. One spare copy.

pvm

I COURT

TYPED BY

CHECKED BY

COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE

AND VICE-CHAIRMAN

THE HON'BLE MR. H. RAJENDRA PRASAD: M(A)

The Hon'ble Mr. B.S. Subramanyam: M(C)

DATED: 24-8-1998.

ORDER/JUDGMENT

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

in

O.A.No.

653/97.

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.

pvm.

