IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

HYDERABAD BENCH

O.A. No. 665 of 1997

DATE OF ORDER : 5-8-1998

Between :

V. Thirupathaiah Goud   ...   Applicant

And

1.   The Director General, Telecom.
      (representing Union of India),
      New Delhi 110001.

2.   The Chief General Manager
      Telecommunications, A.P.,
      Hyderabad 500 001.

3.   The Telecom. District Manager
      Mahabubnagar 509 050

4.   The Sub-Divisional Engineer
      MW Mtce., Mahabubnagar 509 001.   ...   Respondents

Counsel for the Applicant   -   Shri C. Suryanarayana

Counsel for the Respondents   -   Shri V. Bhimanna

Coram :

The Hon'ble Shri H. Rajendra Prasad   -.   Member (A)

The Hon'ble Shri B.S. Jai Parameshwar   -   Member (J)

(Order per Hon'ble Shri B.S. Jai Parameshwar, Member (J)

        Heard Shri C. Suryanarayana, Learned Counsel for
the Applicant and Shri V. Bhimanna, Learned Counsel for
the Respondents.

        The Applicant was initially engaged as Casual
Mazdoor w.e.f. 1-10-88 under the Respondent's Department.
He was retrenched during 1989. He challenged his re-
trenchment from casual service in O.A. 726/90. The
said O.A. was decided on 27-3-91 directing the Respondents

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to prepare a seniority list as per instructions and to reengage the Applicant in accordance with the seniority subject to availability of work and to extend the consequential benefits taking into consideration the decision of the Hon'ble Supreme Court in the case of the Daily Rated Casual Labour in P&T Department Vs UOI (reported in AIR 1987 SC 2342).

He claims regularisation of his services under the Casual Labour Grant of Temporary Status and Regularisation Scheme, 1989 which came into force w.e.f., 1-10-89.

The Respondents took a decision to disengage Casual Mazdoor and to entrust the work of intermitent or seasonal or meanial nature on contract basis.

R-3 issued a letter dated 11-4-1997 furnishing the details of the Casual Mazdoors engaged after 22-6-88 and directed R-4 to terminate those casual mazdoors. Accordingly, R-3 issued a retrenchment notice in No. E-1/MW/MBN/97-98 dated 1-5-97 informing the Applicant that his services would be terminated after the expiry of 31 days from 1.5.97.

He has filed this O.A. to call for the records relating to the impugned orders/letters bearing No. TA/LC/5-190/95 dated 1.4.97 of the 2nd Respondent; No. E.I-60/III/96-97/20 dated 11-4-97 of the 3rd Respondent and the consequential retrenchment notice No. E.1/MW-MBN/97-98 dated 1-5-97 of the 4th Respondent and to quash the same declaring that the retrenchment notice is arbitrary and violative of the provisions of the Contract Labour Act and of the statutory provisions mentioned above besides being unfair labour practice punishable under the mandatory provisions of the ID Act, 1947 and consequently to direct the respondent-authorities to allow the applicant to continue in service and grant

him all benefits which are consequential and incidental to the same such as conferment of temporary status from the date he completed one year service or 240 days in a year and to absorb him in the regular xxxxxxx establishment according to his turn in the seniority list of casual mazdoors, also declaring further that the various restrictions imposed by the 1st Respondent and reiterated by the 2nd Respondent are illegal.

On 23rd May, 1997 an Interim Order was passed staying the operation of the impugned order dated 1.5.1997.

The Respondents have filed a counter disputing the claims of the Applicant. They rely on the decision of this Bench in O.A. No. 230/96 decided on 26.6.1996, O.A. 559/96 decided on 26.12.97 and O.A. 382/97 decided on 26-12-97. They further contend that the impugned notice was issued in accordance with the instructions of the Chief General Manager, Telecom.

The main contention of the Respondents is that the Applicant is not governed by the scheme of 1989. The Applicant was engaged after 22.6.1988.

This Bench while considering O.A. No. 1080/95, in detail, considered the scope of the Scheme, 1989 and formed an opinion that the said scheme is applicable to those casual mazdoors who were engaged prior to 22-6-88, those who had put in 240 days of continuous service in a particular year and that thos who were sponsored through the Employment Exchange.

The said scheme is not applicable to the Applicant. The Applicant cannot claim any benefit under the said Scheme, 1989.

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The Applicant was engaged w.e.f., 1-10-1988. As
the directions given in O.A 1080/95 is applicable to
this O.A. also, the Respondents may devise a scheme for
regularising such of those employees who were employed
on casual basis after 22-6-1988.

So long as the work is available with the Respondents
they may not disengage the Applicants from casual service.
In any eventuality if the Respondents take a decision
to dispense with the casual service of the Applicant
then the Respondents shall enter his name in the live
register of retrenched casual labourers, seniority-wise,
and provide him casual service, if any work is available,
as per his turn. We hope that the Respondents may not
take hasty decision to disengage the Applicant from
casual service. The fact that he has been continued
as casual labourer during the pendency of the O.A.
clearly suggests that there is ample work with the
Respondents to continue the Applicant.

With the above directions the O.A. is disposed of.
No orders as to costs.
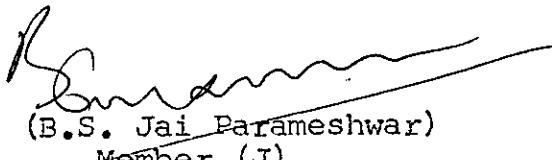
(B.S. Jai Parameshwar)
Member (J)

5.8.98
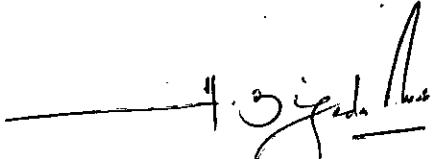
(H. Rajendra Prasad)
Member (A)

Dated : 5-8-1998

Dictated in Open Court
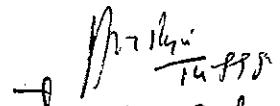
Deputy Registrar

...js/-

TYPED BY   CHECKED BY

COMPARED BY   APPROVED BY

IN THE CENTRAL ADMINISTRATIVETRIBUNAL
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.Jaiparameswar.M(J)
DATED: 5-8-1998.

ORDER/JUDGMENT

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

                        in
O.A.No.   665/97,

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.