

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A. 764 OF 1997

Dated, the 27th August, 1998.

BETWEEN :

1. G. Laxmibai
2. C.S. Kamleshkumari
3. Meenakumari
4. K. Raju
5. R. Narender
6. M. Yadagiri
7. Muppidi Yadagiri
8. A. Kishanprasad
9. B. Nanda Kumar,
10. S. Saranappa
11. C. Prakash
12. P. Krishna
13. M. Surendranath
14. M. Bhaskar
15. K. Venkateswar
16. P. Srinivas
17. N. R. Bhupendar
18. M. Mani
19. K. Vijayakumari
20. Sk. Mohd. Hussain
21. K. Jangaiah
22. K. M. Sreenivas
23. K. Raja Reddy
24. S. Satyanarayana
25. M. Subash
26. M. Sunder

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27. Mohd. Habibuddin
28. P.S. Srinivasa Rao
29. K. Yadagiri
30. P. Narasimha
31. G. Suresh
32. M. Yadaiah
33. Syed Osmanali
34. K. Samson
35. S. Suraiah
36. Syed Muneeruddin
37. K. Naveenkumar
38. R. Sunil Kumar
39. L.A. Sharief Jani
40. K. Sreenivas
41. P. Sampathraj

.... 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 General Manager,
Telecommunications, Telecom District,
Suryalok Complex, Gunfoundry,
Hyderabad.
5. The Chief Superintendent,
Central Telegraph Office, Hyderabad.
6. The Sr. Superintendent,
Telegraph Traffic (South)
C.T.O., Building,
Hyderabad.

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7. The Sr. Superintendent,
S.F.M.S.S.,
C.T.O., Secunderabad.

... Respondents.

COUNSELS :

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

For the Respondents : Mr. V. Bhimanna

CORAM :

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

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

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O R D E R

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

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

2. This is an application filed under Section 19 of the Central Administrative Tribunals Act, 1985. The application was filed on 19.6.97.

3. There are 41 applicants in this O.A. They were engaged as Casual Labourers in the Telecom Department. Their dates of engagement and place work are detailed in Annexure-A1 to the O.A. All the applicants except the applicant No.17--N.R. Bhupender, were engaged between October, 1988 and November, 1994. The applicant No.17 was engaged from 25.8.83 and September, 1985 onwards. The applicants submit that they have been discharging the duties of the 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, since the day of their engagement, that they are paid wages, once in a month, ~~and~~ equivalent to pay and allowances of 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,



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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 and contrary to the terms of their engagement. They submit that they had approached this Tribunal in O.A. 886/96, 1253/96, 1285/96 challenging the instructions of the DGM(Admin), Telecom, A.P. Circle, Hyderabad. They submit that this Tribunal was pleased to direct the respondents not to disengage them from their casual service till their representations are disposed of and for a reasonable time thereafter.

5. They submit that they were given 6 weeks time to submit the individual representations. Accordingly they submitted the representations individually on 16.8.96.

6. The respondent No.3, considered the representations and passed the impugned letter dt. 9/16.5.97 (Page 22 of the O.A.) . In that letter the respondent No.3 informed 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 rely upon the decision of the Hon'ble Supreme Court in the case of Daily Rated Casual Labourers in the

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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.

8. Hence, they have filed this O.A. for direction to the respondents to grant them temporary status and regularisation of services by extending the Scheme of 1989 to them by declaring the impugned letter dt. 9/16.5.97 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, cleaning, delivery of Telegrams, etc. in rural offices where the work load was far less for regular employees. 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 ^{the} 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 had put in 240 days of service in any particular year, and that those who were sponsored by the employment exchange, ^{and} that the applicants cannot claim the benefits for regularisation under the said Scheme.



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9. 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 of 1996 decided on 26.12.97 and in O.A. 1080 of 1995 decided on 30.4.98.

10. 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.

11. 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 reengagement 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.

12. 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.

13. 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.

14. This Tribunal in O.A. 1080/95 considered in depth the Scheme 1989 and held that these Casual Labourers, who were

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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 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.

15. Hence, we issue the following directions :

a) The applicant No.17--N.R. Bhupender may, if so advised, submit a detailed representation with documentary proof to show that he was engaged between 25.8.83 and September, 1985 onwards. He should submit the representation to the competent authority within one month from the date of receipt ^{of a copy -} of this order.

b) If such a representation is received within the stipulated period, then the competent authority shall check the records maintained in his office and if it is found correct, then the respondent No.3 shall consider the case of the applicant No.17 for grant of temporary status under the Scheme 1989.

c) The applicants from No.1 to 16 and 18 to 41 are not entitled to claim for regularisation under the Scheme 1989.

d) The respondents shall not disengage the services of the applicants so long as the work is available with them till the disposal of all the representations of the applicants and also the representation of the applicant No.17.

e) In case, the respondents are compelled to disengage the services of all the applicants for want of work then

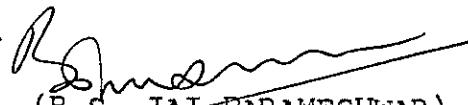
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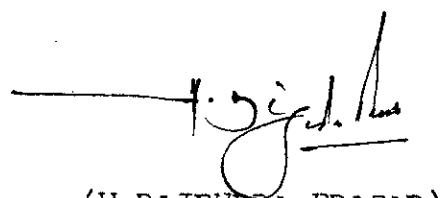
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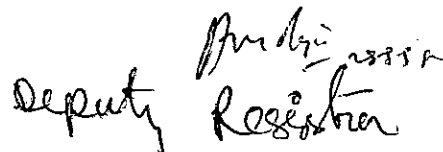
they must follow the prescribed procedure of giving notice with adequate time and then enter the names of the retrenched applicants in the live register of casual labourers maintained in the office as per seniority and provide work to the applicants whenever the work is available as per the rules, in preference to the freshers.

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


(B.S. JAI PARAMESHWAR)
MEMBER (J)
27.8.98


(H. RAJENDRA PRASAD)
MEMBER (A)

Dated, the 27th August, 1998


Deputy Registrar

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To

1. The Chairman, Telecom Commission,
Telecommunications, New Delhi.
2. The Director General,
Telecommunications, A.P.Circle,
Abids, Hyderabad.
3. The Chief General Manager, Telecommunications, Abids,
A.P.Circle, Hyderabad.
4. The General Manager, Telecommunications,
Telecom Dist. Suryalok Complex,
Gunfoundry, Hyderabad.
5. The Chief Superintendent,
Central Telegraph Office, Hyderabad.
6. The Sr.Superintendent,
Telegraph Traffic (South)
C.T.O.Building, Hyderabad-1.
7. The Sr.Superintendent, S.F.M.S.S.,
C.T.O.Secunderabad-3.
8. One copy to Mr. V.Venkateswar Rao, Advocate, CAT.Hyd.
9. One copy to Mr.V.Bhimanna, Addl.CGSC. CAT.Hyd.
10. One copy to HBSJP.M.(J) CAT.Hyd.
11. One copy to DR(A) CAT.Hyd.
12. One spare copy.

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28/9/98

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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. Jaiparameswar: M
DATED: 27-8-1998.

ORDER/JUDGMENT

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

in

O.A.No.

764/97

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.

केन्द्रीय प्रशासनिक अपील
Central Administrative Tribunal
प्रेषण / DESPATCH

28 SEP. 1998

हैदराबाद न्यायपीठ
HYDERABAD BENCH

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Pl. check the Bench
prop. in the CO.
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SIR,
Correct