

CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH :
AT HYDERABAD.

O.A.No.1055 of 1997.

Date of Order:- 2-8-1998.

Between :

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

Applicants

And

1. The Director General,
Telecommunications,
New Delhi.
2. The Chief General Manager,
Telecommunications,
A.P. Circle, Abids,
Hyderabad.
3. The Telecom District Manager,
Telecom, Mahboobnagar.
4. The Sub-Divisional Engineer(Comm1)
O/o. Telecom District Manager,
Mahboobnagar.

Respondents

Counsel for Applicants

: Mr. V. Venkateswara Rao

Counsel for Respondents

Mr. V. Rajeswara Rao, CGSC

Coram :

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

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

ORDER.

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

1. Heard Mr. V. Venkateswara Rao, learned counsel for the applicant and Mr. V. Rajeswara Rao, 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 12.8.1997.

3. There are 15 applicants in this O.A. They are all casual labourers in the Telecom department. The details of their dates of engagement and places of work are described in Annexure-I to the O.A. They were engaged between July, 1988 and January, 1996. They submit that the works entrusted to them are those of a Group 'D' employee in the department. They are being paid wages once in a month equivalent to the pay and allowances of a Group 'D' employee in the department. They submit that the works entrusted to them are of continuous and perennial nature. They rely on the Casual Labourers (Grant of Temporary Status and Regularisation) Scheme, 1989.

4. The applicant No.15 C. Damodar Reddy submits that he was initially appointed as E.D.Messenger with effect from 1.4.1981 in the Postal Wing. When a Telecom Centre at D.T.O. Nagar Kurnool was opened, he was appointed as a part-time Messenger. He had filed O.A.No.488/96 before this Tribunal and the same is pending. He has claimed for regularisation, of his service.

5. The applicant No.13 Md. Farooq has filed O.A.No.653/97 for the same relief and the same is pending. Applicant No.14 B. Gopala Krishna had filed O.A.No.1414/96 and this O.A. is also pending in this Tribunal.

5 (a). The other applicants being aggrieved by the proceedings dated 1.5.1997 have filed this O.A. The gist of the letter dated 1.5.1997 is that the Telecom Department took a decision not to engage the contract labourers and thus they sent notices to all those contract labourers that their services would be dispensed with.

6. They submit that the DoP has extended the cut-off date till 10.9.1993 for regularisation of the contract labourers.

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6(a). The respondent No.4, it is submitted, issued the notice of retrenchment dated 30.7.1997 (Annexure-III at page 15 of the OA). In the said notice the respondent No.4 informed the applicant that they were not engaged as casual labourers and that they were engaged on contract basis for performing a specific work for a specified amount. The contract was renewable every month; that the contract could be terminated by either party with due notice; and that therefore, they are not entitled for regularisation under the scheme 1989.

6.(b) The applicants have filed this O.A. praying for a direction to the respondents to grant them temporary status under the Scheme 1989 by declaring the impugned letter of retrenchment dated 30.7.1997 vide No.E-9/97-98/1 issued by the respondent No.4 as illegal, arbitrary and unconstitutional and to quash the same with all consequential benefits.

7. The respondents have filed the counter. They have explained the circumstances under which they engaged certain individuals to perform the works like sweeping, cleaning, scavenging and delivering telegrams on contract basis. They submit that there are small Telegraph offices in the rural areas in the State of Andhra Pradesh; that those offices do not justify posting of a regular Group 'D' employee; that there are such 400 contract labourers in the State of Andhra Pradesh; that they were engaged on contract basis; that the works entrusted to them can be performed by the applicants or their representatives; that the applicants are not entitled for regularisation under the Scheme, 1989; that they also rely on the decision of this Tribunal in O.A.No.230/96 decided on 26.6.1996, O.A.No.559/96 decided on 10.12.1997, and O.A.No.382/97 decided on 26.12.1997 and also O.A.No.1080/95 decided on 30.4.1998.

8. The case of the applicants is for regularisation of their services under the Scheme 1989. They contend that they are the casual labourers of the department. However, the

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respondents dispute the applicants' status. The respondents submit that they are the contract labourers. They have explained the circumstances under which they entered into contract with the applicants.

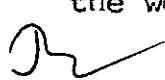
9. In the absence of any material on record, we feel it may not be proper to consider the status of the applicants. The respondents have not produced the proforma of the contract to ascertain whether they are the contract labourers. The applicants have also not produced any material documents to substantiate their claim that they are casual labourers. However, the respondents admit the services being rendered by the applicants in the Department.

10. From Annexure-I to the O.A. it is disclosed that the applicants were engaged between July, 1988 and January, 1996. Therefore, the applicants cannot claim benefit under the Scheme, 1989.

11. This Tribunal considered the details of the scope and ambit of the scheme, 1989 in O.A. No. 1080/95 decided on 30th April, 1998. In the said O.A. this Bench gave directions to the respondents to consider the case of the casual labourers or contract labourers who were engaged after 22.6.1988. We feel, the directions given in O.A. No. 1080/95 are applicable to the applicants in this O.A.

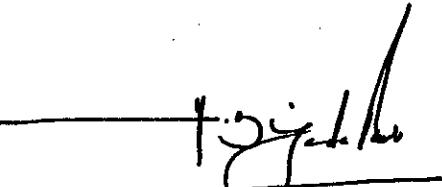
12. Hence, we feel it proper to issue the following directions :

- (a) The respondents shall follow the directions issued in O.A. No. 1080/95 dated 30.4.1998.
- (b) The respondents shall not disengage the services of the applicants so long as the work is available with them. In case of any eventuality of the respondents taking a decision to dispense with the services of the applicants, then they shall follow the prescribed procedure of issuing notice to each of the applicants and enter their names in the live register of retrenched casual labourers senioritywise and provide them work whenever the work is available in the department, in preference to freshers.



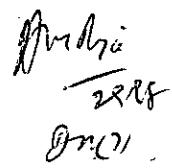
13. With the above directions, the O.A. is disposed of.
No order as to costs.


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


(H. RAJENDRA PRASAD)
MEMBER (A)

Dated the 2nd September
August, 1998.

DJ/


28/8
D.J.

10/9/98
I COURT

TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE D.H.NASIR,
VICE-CHAIRMAN

AND

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

THE HON'BLE MR. B.S.JAI PRASAD: M(C)

DATED: 2-9-1998.

~~ORDER/JUDGMENT~~

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

in

O.A.NO. 1055/97

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.

