

FORM NO. 21.

(Sec. Rule 114.)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD, BENCH. HYDERABAD.

O.A. / ~~T.A.~~

1258

1998

..... H. Subbarao

..... Applicant (s)

Versus

..... The Chairman, Telangana Commission

..... Andhra Pradesh & Orissa

..... Respondent(s)

INDEX SHEET

Serial No.

Description of documents
and dates.

Pages.

Docket orders.

Interim orders

Orders in M.A (s)

Reply Statement

Rejoinder

ORDERS in(Final orders)

29-9-97
14-10-97
11-12-97

125
43649

23642

9-9-98 50664

Certified that the file is complete

in all respects.

Signature of Dealing Hand.

(In record section)

Signature of S. O.

OA. 1258/97.

①

Pre-ponderant order in the
above OA is placed for
kind perusal.

Sh
P.S.

~~Mr (S)~~ : Jan
14/8

~~Mr (S)~~ II: J. pl. see para 8-12
on pp 5-12 for concurrence.

Seen, Concurred

(Blanks in p.6 may please be filled up)
1/9.

To be listed on Q 9-98

C. A .V. SLIP

1. Circulated to Hon'ble Sri B. S. Jai Prakash Hon'ble Mr. (Jud)
2. Case No. As. 1258, 1253, 1366, 1547, 764, 548, 637, 638, 653, 1053 and
(1) (2) (3) (4) (5) (6) (7) (8) (9) (10) (11)
of 1634/97.
3. Date of Hearing. 31.7.98.
4. Date when reserved for Judgement : 31.7.1998.
5. Cases cited by the Counsel for Applicants:
 - a.
 - b.
 - c.
 - d.
 - e.
 - f.
 - g.
6. Cases cited by the counsel for Respondents:
 - a.
 - b.
 - c.
 - d.
 - e.
 - f.
 - g.
7. Books Circulated:
8. Departmental files if any:

Date: 31/7/98

A. Suresh Babu
COURT OFFICER.

7801869

OA. 1258/97

Date

Office Note

ORDER

14.10.97

To be listed next week at the request of the counsel for the respondents.

Interim order dated 29.9.97 to continue.

SN

~~Q~~
HHRP
M(A)

11.12.97

None for the respondents. No reply has been filed. This may be done within 2 weeks and post it thereafter. Admitted in the mean-while. Interim orders to continue.

Admit/Notice
at
18/12/97

~~Q~~
HHRP
M(A)

Issued
22/12/97

KSM

17-3-98

May be listed around 15-4-98.

~~Q~~
HHRP
M(A)

21/4/98

Three weeks granted for filing counter. Let it thereafter.

~~Q~~
HHRP
M(A)

Admitted
2 weeks stay
18/12/97

QSM

(3)

Central Administrative Tribunal Hyderabad Bench: Hyderabad.

J.A.No. 1258 of 1997.

H. Subba Rao Applicants(s).

VERSUS.

The Chairman, Telecom Commission,

New Delhi, 2 & 3 Bn.

(Respondents).

Date	Office Note	ORDER
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25.9.97

List it tomorrow i.e.

26.9.97

[Signature]
HHRP
M(A)

MD

29-9-97

Heard Mr. V. Venkateswara Rao for the applicant, who is aggrieved by the impugned order issued by the CGM whereas representation submitted by the applicant was addressed to the DG. Ms. Shyama was also heard for the respondents.

A detailed reply is required to be filed in this case, for which four weeks are given. In the mean while Ms. Syama undertakes to seek instructions and make submissions within a week.

List it next Tuesday.

In the meanwhile, the services of the applicant shall not be terminated ^{or} he shall not be dis-engaged until further orders.

sk

[Signature]
HHRP
M(A)

13-10-97

cc to 2
None for the parties list it tomorrow
i.e. 14.10.97.

[Signature]
HHRP
M(A)

^① OA Nos. 1258, ^②1353, ^③1366, ^④1547, ^⑤764/97, ^⑥548, ^⑦637, ^⑧638, ^⑨653
^⑩OA 1055/97 and OA 1684/97

DATE

Office Note

ORDER

31/7/98

Heard m. v. Venkatachari for counsel for the
 applicant's ~~in~~ ⁱⁿ all the cases except OA 1353/97 and
 m. T. V. V. S. Murthy, counsel for the applicant in
 OA 1353/97 and of m. v. Basuwar Char,
 m. v. Vinod Kumar, m. v. P. Sreenanna and of m. v. N. S. S.
 Res. Add cases for the respondents.
 OAs are referred for judgment.

R
 HBSJP
 m(S)

J
 HBSJP
 m(A)

OA 1258/97

9/10/98

Order pronounced in open bar.

O.A. is disposed of with no order
 as ~~to~~ ^{as} ~~cont~~ ^{cont}
 (with separate order).

J
 HBSJP 9.98
 m(S)

J
 HBSJP
 m(A)

CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH: SECHHYDERABAD.

ORIGINAL APPLICATION NO. 1258 OF 1997.

H Subbarao

(Applicants(s))

VERSUS

Union of India, Repd., By.

Chairman, Telecom Commission,

New Delhi L 3003

Respondents(s(s))

The Application has been Submitted to the Tribunal by Shri

V. Venkateswara Rao

Advocate/Party

~~in person~~ Under Section 19 of the Administrative Tribunal Act. 1985 and the same has been scrutinised with reference to the points mentioned in the check list in the light of the provisions in the administrative Tribunal(procedure) Rules 1987.

The application is in order and may be listed for Admission No.-----

Scrutiny Asst.

20
23/9/97

gpr
DEPUTY REGISTRAR(JUDL)

11. Have legible copies of the annexure duly attested
been filed. *uy*
12. Has the applicant exhausted all available remedies. *uy*
13. Has the Index of documents been filed and pagination
done properly. *uy*
14. Has the declaration as required by item No. 7 of
Form. I been made. *uy*
15. Have required number of envelopes (file size) bearing
full addresses of the respondents been filed. *uy*
16. (a) Whether the relief sought for, arise out of
single cause of action. *uy*
(b) Whether any interim relief is prayed for. *uy*
17. (c) In case an MA for condonation of delay is filed,
is it supported by an affidavit of the applicant. *—*
18. Whether this cause be heard by single Bench. *uy*
19. Any other points. *—*
20. Result of the Scrutiny with initial of the scrutiny
clerk.

May be new bundle.

Scrutiny Assistant.

Section Officer.

Deputy Registrar.

Registrar.

CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH: HYDERABAD.

Sl. No. 498299

Report in the Scrutiny of Application.

Presented by Sh. V. Venkateswara Rao Date of Presentation. 16.9.97

Applicant(s) H. Subba Rao

Respondent(s) Chairman, Telecom Commission,
Telecom Commission, New Delhi 110 001

Nature of grievance Regulation

No. of Applicants 1 No. of Respondents 4

Regulation of Security
& Control CLASSIFICATION.
Subject.....No Department..... Telecom (No)

1. Is the application in the proper form,
(three complete sets in paper books form
in two compilations). ey
2. Whether name description and address of all the
parties been furnished in the cause title. ey
3. (a) Has the application been fully signed and verified. ey
(b) Has the copies been duly signed. ey
(c) Have sufficient number of copies of the application
been filed. ey
4. Whether all the necessary parties are impleaded. ey
5. Whether English translation of documents in a language
other than English or Hindi been filed. ey
6. Is the application on time, (See-Section 21). ey
7. Has the Vakalatnama/Memo of Appearance/Authorisation,
been filed. ey
8. Is the application maintainability.
(U/S 2, 14, 18, or U/R. 8 Etc.,) ey
9. Is the application accompanied IPO/DD, for Rs.50/- ey
10. Has the impugned order's original, duly attested legible
copy been filed. ey

P.T.O.,

CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH: HYDERABAD

I N D E X S H E E T

C.A.NO. 1258 of 1997.

CAUSE TITLE H. Subba Rao

V E R S U S

Free Chairman, Telecom Commission,

New Delhi & 3 Ors.

SL.NO.	Description of Documents	Page No.
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2.	Material Papers	13-14
3.	Vakalat	1
4.	Objection Sheet	1
5.	Spere Copies	4
6.	Covers	4

T. Re ply statement filed by M. V. R. P. J.
New Rao m 12/7/98.

To direct the respondents to grant temporary & regularisation of services by declaring the impugned 10.4.97 as illegal, arbitrary etc.

As
single

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
O.A.NO. 1258 OF 1997

Between:

H. Subba Rao

And

The Telecom Commission & others

Regularisation of Service
& Casual Labourers - (A)
.. Applicant

Telecom
.. Respondents

CHRONOLOGY OF EVENTS

दूर संचार TELECOM

S.No.	Date	Description	Page No.
1.	22.06.88	Scheme of Casual Labourers Grant of temporary status and regularisation who were in service before that date.	3
2.	31.07.95	Instructions issued by the Dy.G.M. (ADM), Telecom, A.P.Circle.	5
3.	25.07.96	Judgment in O.A.NO.890/96 by this Hon ^{ble} Tribunal	6
4.	12.08.96	Representations submitted by the applicant individually	6
5.	10.04.97	Impugned letter issued by the 3rd respondent	7

Hyderabad,

Dt: 12-08-97


Counsel for the Applicant

Recd
12/9/97
B. R. Rao



CENTRAL
IN THE/ADMINISTRATIVE TRIBUNAL:: HYDERABAD BENCH: HYDERABAD

O.A.NO. 1258 OF 1997

Between:

H. Subba Rao

Applicant

And

The Telecom Commission & others


Respondents

MATERIAL PAPERS INDEX

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1.		Original Application	01 to 12	
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3.	31.07.95	Letter issued by the Dy. General Manager (Adm), Telecom, A.P.Circle	19	II
4.	12.03.96	Representation submitted by the Applicant	20	III
5.	10.04.97	Impugned letter issued by the Respondent No.3	21	IV

Hyderabad,

Dt: 12-06-97.


Counsel for the Applicant

(8)

Application filed under Section 19 of the Administrative
Tribunal Act, 1985

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH: HYD

O.A. NO.

OF 1997

Between:

H/ Subba Rao, S/o M. Ganapathi Rao,
aged about 21 years,
Occ: Casual Labourer,
Panidi Telecom Centre,
R/o: Ananthapur.

Applicant

And

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 Telecom District Manager,
Department of Telecom,
Ananthapur.

Respondents

DETAILS OF THE APPLICATION

1. PARTICULARS OF THE APPLICANT: The particulars of
the applicant for the purpose of service of notices
etc., is that of his counsel M/s. V. Venkateswar Rao,
K. Phaniraju, Advocates, 1-8-430, 1st Floor, Uma Gardens,
Chikkadpally, Hyderabad - 500 020.

2. PARTICULARS OF THE RESPONDENTS: The particulars
of the Respondents for the purpose of service of noti-
ces etc., are the same as shown in the cause title.

3. ORDERS AGAINST WHICH THE O.A. IS FILED: The
applicants herein files the present O.A. seeking regular
absorption of their services in the Department of
Telecom by applying the Casual Labourers (Grant of

Temporary Status & Regularisation) Scheme, 1989 and aggrieved by the Letter No. IA/IFC/DA No. 890/96/20 dated 10.4.1997 issued by the 3rd respondent rejecting his representation submitted as per the orders dated 15.7.1996 passed by this Hon^{ble} Tribunal in O.A. No. 890/96.

4. JURISDICTION: The applicant submits that the original application filed is well within the jurisdiction of this Hon^{ble} Tribunal as provided under Section 14 (1) of the Administrative Tribunals Act, 1985 in as much as the applicant is employed as Casual Labourer within the territorial jurisdiction of this Hon^{ble} Tribunal and in the Department of Telecom.

5. LIMITATION: The applicant declares that the original application filed is well within the limitation period as prescribed under Section 21 (1) of the Administrative Tribunals Act, 1985 in as much as the impugned letter is dated 10.4.1997 issued by the 3rd Respondent.

6. FACTS OF THE CASE: The applicant herein respectfully submits that he was engaged as Casual Labourer in the Department of Telecommunications from 29-3-95 at Pamidilecom Centre, Ananthapur District. The applicant is discharging his duties of Telegraphmen etc., of Class-IV cadre continuously ever since the date of his engagement as casual labourer. The work being entrusted to the applicant as casual labourer is of personnel and regular nature. He is engaged

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as such against the post sanctioned from time to time by the competent authorities. He is continued without any break and have rendered more than 240 days of work in every year. He has paid the wages monthly once ~~equal~~ equivalent to the pay and allowances attached to the post of Telegraphman etc in the Group-B cadre. He is engaged and continued in the service of casual labourer only as per the jurisdiction in the department.

II) As per the scheme applicable to the casual labourers all the casual labourers who were in service as on 22/6/53 were regularised in terms of the scheme of casual labourers (grant of temporary status and regularisation) scheme. Though the applicant has become eligible and entitled for grant of Temporary Status and regular absorption in the Department against Group-B vacancies, the authorities are continuing the applicant deliberately on casual basis. Though the work entrusted to him is continuous and is perennial in nature. The applicant is not regularised so far and he has been continued only on ~~casual~~ casual basis. Continuance of the applicant as casual labourer by the authorities is only with an ulterior motive of denying his right to regularisation and treatment on par with regular employees. As per the scheme referred to above, the applicant herein has become fully eligible and entitled to grant of temporary status and regular

absorption in the Department. He has engaged and his services are utilised as casual labourer continuously in the exigency of the Department and there is work and need for employment. Denial of grant of Temporary Status and regular absorption to the applicant merely on the ground that he is engaged after 22/6/58 is illegal and arbitrary. The applicant is entitled for the benefits under the scheme of Grant of Temporary Status and Regularisation. Denial of the same would constitute discrimination forbidden by the Constitution of India under the provisions of Article 14 & 16 of the Constitution of India. A similar scheme is in operation in the Railways where in the casual labourers are granted the Temporary Status etc without reference to any cut off date. Prescription of cut off date in these circumstances is violative of Article 14 of the Constitution of India. The applicant herein has fulfilled the entire criteria laid down in the scheme for grant of temporary status and regular absorption etc but for the cut off date which is arbitrary. The said scheme was formulated pursuant to the directions issued by the Hon'ble Supreme Court of India and daily rated employees of Posts & Telegraphs Department (AIR 1987 Supreme Court Page 2343) regarding the absorption of the casual labourers working in the department of Posts & Telegraphs. Initially 22/6/58 was fixed as a cut off date for the application of the said scheme. Subsequently

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Hon'ble Tribunal was pleased to dispose of the said O.A at the admission stage on 15.7.1996. This Hon'ble Tribunal was pleased to direct the respondents not to disengage the applicant till the representations are disposed off and for a reasonable period thereafter while leaving upon to the applicants to submit individual representations within a period of six weeks thereafter. Accordingly, the representation was submitted by the applicant individually on 12.8.96.

IV) Thereafter, the 3rd respondent vide his letter dated 18.4.97 addressed to the applicant rejected his representation. The observations made by this Hon'ble Tribunal in its order dated 15.7.1996 in O.A.No.890/96 have not been taken into account while disposing of the representation. Representation was disposed off in a most mechanical manner by simply stating that the scheme referred to is applicable and issued by the Department of Posts only and as such scheme has not been issued by the Department of Telecom. In this connection, it is respectfully submitted that it is one of the main points urged in the representation of the applicant as well as in O.A.No.890/96 that since the Department of Telecom and Department of Posts are under the same ministry, the similar scheme extended to the employees of the Department of Posts upto 18.9.93 may be extended to the casual labourers of the Telecom Department in the similar manner. It was also clearly mentioned that

the Department of Telecommunications extended the scheme upto 22-6-88 prescribing the same as cut off date. Now the Department of Posts have extended the said scheme upto 10-9-93. It is also pertinent to note that in O.A.No.187/94 and batch filed by physically handicapped public telephone attendants who were working on commission basis in the Department, the Department of Telecommunications extended the scheme to these public telephone attendants to treat them as casual labourers within the scheme. In these cases number of public telephone attendants who were appointed subsequent to 22-6-88 also were given the benefit of the said scheme for the purpose of absorption in the Department of Telecommunications.

III) It is further submitted that the Deputy General Manager (Adm), Telecom, A.P.Circle had issued instructions vide his letter dated 31-7-1995 directing the authorities to replace the casual labourers by entrusting the work being done by them to contract labourers by inviting tenders by outside agencies. The said instructions issued by the D.G.M. (Adm) are wholly illegal and arbitrary and unfair and unconstitutional. The contract labour system is not practiced in the Department of Telecommunications. Without any authority of law and competency only in the A.P.Circle the applicants who are in fact casual labourers are sought to be treated as contract labourers. Aggrieved by the said instructions and apprehending the disengagement the applicant herein filed O.A.No.890/96 in this Hon'ble Tribunal. This

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the cut off date of 22.6.88 for the purpose of applying the casual labourers (grant of temporary status and regularisation) Scheme, 1989 is wholly illegal and arbitrary. It was also clearly mentioned that in the Department of Railways a similar scheme is being operated without any cut off date. The above salient points and other issues raised in the representation submitted by the applicant was not at all considered before rejecting his representation.

V) In utter disregard to the truth and the records available with the administration the 3rd respondent in this letter dated 10.4.97 stated that the applicant has not engaged as casual labourer but was awarded a contract for specific work to be done either by them or through his agent for a specific amount. Such a stand taken by the 3rd respondent is wholly illegal, arbitrary, false and baseless. None of the applicant herein has ever entered into a contract for specific work or for a specific amount. All though he has been engaged as casual labourer on daily wages being paid monthly once. The daily wages were being paid as per the instructions issued by the Department of Telecom from time to time as per the judgment of the Hon'ble Supreme Court of India in respect of payment of daily wages to the casual labourers working in various departments. On the basis of the certain letters obtained from the applicant now and then at the time of payment of his monthly wages, such an illegal plea is raised by the respondents to deny the legitimate right of the applicant for regular

absorption in the department. Engagement of contract labourer contrary to the provisions of the contract labour (Abolition & Regulation) Act, 1976 is not valid in the eye of law. That apart as per the instructions of the Department engagement of the contract labour should be through agencies and not awarding individual contracts. Therefore, the said plea is not valid in the eye of law and the authorities are estopped from raising the said plea. It is not open to the department to convert the casual labourers into contract labourers at their whim and fancy. Such conversion of casual labourers into contract labourers would amount to retrenchment in violation of the provisions of the Industrial Disputes Act as has been held by the Hon'ble Supreme Court of India.

VI) It is further submitted that when administrative decision was taken to retrench the daily rated Mazdoors in each Division who were appointed after 1-4-1985, the Principal Bench of the Hon'ble Tribunal in O.A.No.529/88 held in its judgment dated 4-5-1988 that the decision to retrench these casual mazdoors is not valid in view of the Supreme Court's Judgment dt. 27-10-87 in daily rated casual labourers employed in P.T. Department Vs. Union of India. Consequential directions to reinstate them was also granted. Accordingly, the letter dt. 31-7-95 issued by the Dy. General Manager (Adm) directing the authorities to dispense with the services of the casual labourer engaged after 22-6-88 is wholly

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illegal and arbitrary and is liable to be quashed.

VII) It is further submitted that the Department of Posts vide its letter No. 66-52/92/Spd.1 dated 10.11.1995 decided that the full time casual labourer recruited after 29.11.1989 and upto 10.11.93 be considered for grant of the benefits of temporary status and regularisation under the Casual Labourer (Grant of Temporary Status and Regularisation) Scheme, 1989 framed pursuant to the directions of the Hon'ble Supreme Court of India (AIR SC 2343). It is held by the Hon'ble Supreme Court of India in its order dated 17.4.1990 in Ram Gopal & Others Vs. Union of India that its decision cited above squarely applied to the casual labourers of the Telecom Department. As such it is necessary that the benefits under the aforesaid scheme may be applied to the casual labourers recruited after 22.6.88 and also in the Telecom Department as in the case of Postal Department.

VIII) In view of the facts and circumstances mentioned above the impugned letter dated 10.4.97 issued by the 3rd respondent to the applicant herein is wholly illegal and arbitrary and unconstitutional and as such is liable to be quashed by this Hon'ble Tribunal. The applicant herein is entitled for regular absorption of his services in the Department of Telecom in as much as he has been working as such since many years without any break against the posts sanctioned by the competent authorities.

IX) IT is respectfully submitted that even the

after the issue of the impugned letter at 10-4-97, the applicant herein is discharging his duties. The other similarly situated applicants who were received the impugned letters have filed O.A. before this Hon^{ble} Tribunal and this Hon^{ble} Tribunal was pleased to grant the stay of disengagement of the applicants in that O.A.

74 MAIN RELIEF: Therefore in the interest of justice the applicant herein pray that this Hon^{ble} Tribunal may be pleased to direct the respondents to grant Temporary Status and Regularisation of the services of the applicant by extending the Casual labourers (Grant of Temporary Status and Regularisation) Scheme, 1989 to them by declaring the Letter No. TA/IFC/OA No. 390/96/20 dated 10.4.1997 issued by the 3rd respondent as illegal, arbitrary and unconstitutional and quash the same with all consequential benefits and pass any other order or orders as is deemed fit, proper, necessary and expedient in the circumstances of the case.

85 ~~SPILLING~~ INTERIM RELIEF: The applicant herein further pray that this Hon^{ble} Tribunal may be pleased to Stay all further proceedings including disengagement of the applicant herein as casual labourer in pursuance of the Letter No. TA/IFC/OA No. 390/96/20 dated 10.4.1997 issued by the 3rd respondent in the interest of justice and pass any other order or orders as is deemed fit, proper, necessary and expedient in the circumstances of the case.

9. REMEDIES EXHAUSTED: The applicant made representations to the 3rd Respondent and the same was rejected by the 3rd respondent vide impugned letter dated 18.4.1997 and hence they availed the alternative remedy available to them in compliance with the provisions of Section 20 of the Administrative Tribunals Act, 1985.

10. MATTERS NOT PENDING WITH ANY OTHER FORUM ETC:

The applicant herein submit that they have not filed any other O.A. or any case before any other Forum on the same subject matter nor any writ petition filed in this regard.

11. POSTAL ORDERS ETC: Indian Postal Order No. 217266 Dt. 16/9/97 for Rs. 50/- (Rupees Fifty only) drawn in favour of the Registrar, Central Administrative Tribunal, Hyderabad Bench, Hyderabad is enclosed herewith. *ls. 50/- A*
(P.O. No. 217266)

12. DETAILS OF INDEX: An Index showing the details of the Material Papers to relied in the case, is enclosed herewith.

13. ENCLOSURES:

1. Vakalatnama
2. Material Papers
3. Postal Order for Rs. 50/-
4. Chronology of Events and Material Papers Index.

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VERIFICATION

I, H. Subbarao, S/o. H. Ganagathi Rao the applicant herein do hereby verify that the paragraph Nos. 1 to 13 are true and correct to the best of our knowledge and belief and on information. Hence, verified on this the 24 day of ^{Sept} August, 1997.

Hyderabad,

Dt. 02-08-97

To

The Registrar,
Central Administrative Tribunal,
Hyderabad.

H. Subbarao

H. SUBBARAO

COUNSEL FOR THE APPLICANT

APPLICANT

From:

H. Subba Rao

Casual Labourer
Telecom Center

To: Germinals 515775

The Director General,
Telecommunications,
N.E.W. D.E.L.H.I.

Sir,

I humbly submit the following for favour of sympathetic and judicious consideration.

I was engaged as casual labourer on 27-3-95 on daily wages (PRO-RATA) at Telecom Center, and I am presently working as such in the Department. I have completed more than 2 1/2 years of service as casual labourer by rendering more than 240 days of work in every year. The work entrusted to me is of permanent and perennial nature and as such there is need for regular absorption of my services in the Department.

I earnestly request that I may kindly be granted temporary status and regularisation by applying the casual labourer (grant of Temporary Status and Regularisation) Scheme, 1989 in as much as I fulfilled the eligibility criteria laid down therein in view of my long service as casual labourer in the Department. Similar schemes are operated in the Department of Railways and other Central Government Organisations without reference to any cut off date. Recently on the basis of the judgement of Ernakulam Central Administrative Tribunal, the Government of India vide its letter dated 1-11-1995 extended the date from 29-11-1989 to 10th September, 1993 for the purpose of grant of Temporary status and regularisation of casual labourers in the Department of Posts. Since the Departments of Posts & Telegraphs were together earlier and are in the same Ministry i.e., Ministry of Communications and the similar scheme is in operation in the Department of Telecommunications on the same principle the cut off date for application of the scheme to Casual Labourers of Telecom Department may also please be extended.

Therefore I request your kind honour to grant me temporary status and regularisation of my services by applying the casual labour (grant of temporary status) and Regularisation scheme, 1989 without reference to any cut off date and to do justice to enable me to earn my livelihood.

I am enclosing herewith a copy of judgement delivered by the Hon'ble Central Administrative Tribunal, Hyderabad Bench in O.C.No.890 of 1996 on dated 15-7-1996 wherein I am one of the applicants. I submit this representation as per the directions issued by the Hon'ble Central Administrative Tribunal.

Thanking you,

Yours sincerely,

H. Subba Rao

(H. Subba Rao)

KAL
15th August, 1996.

COPIES SUBMITTED TO:

1. The Chief General Manager, Telecommunications, A.P. Circle, Hyderabad-500 001.
2. The General Manager, Telecom, Hyderabad Area at Secunderabad-500 003.
3. The Telecom District Manager, Ananthapur District.

....For favour of necessary action.

[Signature]

DEPARTMENT OF TELECOMMUNICATIONS
GOVERNMENT OF INDIA

Office of the Chief General Manager, Telecommunications, Andhra Pradesh
Doorsanchar Bhavan, Nampally Station Road, Hyderabad - 500 001.

No. 7A/170/
No. O.A.No.890/96/20

Dated at Hyd. the 10.4.97.

To Sri H. Subba Rao
Contract Labourer in-charge
Telecom Centre
PANIDI 375775

Sub: Your representation dated 12-8-96
addressed to DG Telecom, New Delhi.

Sir,
Please refer to your representation dated 12-8-96 addressed to DG Telecom, New Delhi. In obedience to the directions of the Hon'ble CAT-Hyd on dt. 15.7.96 in OA 890/96, your representation is considered in detail and I am directed to intimate the following.

1. The judgement Supra directs for grant of benefit under the scheme to full time casual labourers recruited after 22.11.89 upto 10.9.93. It is to state that no such scheme is notified for the Dept. of Telecom. The scheme being referred to is the one issued by the Department of Posts, which has no application in the case of Department of Telecom.

2. You are not engaged as a casual labourer but you were awarded a contract for specific work to be done either by you or through your agent for specific amount. The contract is renewable every month and can be terminated by either party with due notice. As you are not a casual mazdoor/labourer of this department, you are not eligible for any of the benefits, this department had extended to casual labourers. As such the question of granting Temporary status or regularising your service does not arise.

Please acknowledge the receipt of this letter.

Thanking You,

Yours faithfully,

[Signature] 10/4/97
Asst. Genl. Manager (Admn)
for C.G.M. Telecom, A.P. Circle,
Hyderabad-1.

[Signature]

CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH.

O.A. REGD. NO 2982/97

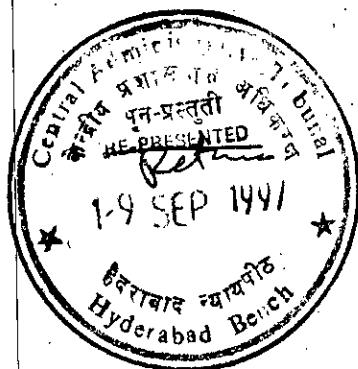
Date: 18-9-97

To Sh V. Venkateswara Rao, Adv.

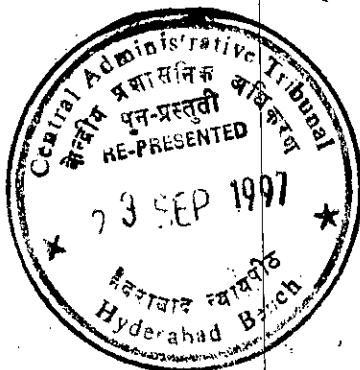
Sir,

I am to request you to rectify the defects mentioned below in your application within 14 days from the date of issue of this letter, failing which your application will not be registered and action under Rule 5 (4) will follow.

- 1) Stamp & signature value to be affixed to
Verkalet
- 2) one more copy of application to be filed.



Of course Central with
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28/9/97.



DEPUTY REGISTRAR (JUDL)

18/9/97

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22/7

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

O.A.No. 1258 of 1997

Between:

H. Subbarao

...Applicant

And

The Telecom Commission & 3 others.

...Respondents

REPLY STATEMENT ON BEHALF OF THE RESPONDENTS

I, **G.V.R.Setty**, S/o G.Govinda Setty aged 51 years R/o. Hyderabad solemnly affirm and state on oath as follows.

1. I am working as Assistant General Manager(Legal) in the office of the Chief General Manager Telecom., A.P.Circle, Hyderabad. I am well acquainted with the facts of the case. I am filing this affidavit on behalf of the respondents and I am **authorised** to do so. All the material averments save those that are expressly admitted herein are denied and the applicant is put to strict proof of the same.

2. It is submitted that the expansion of Telecom Services lead to opening of many Telegraph Offices and Telecom Centres in the state of Andhra Pradesh mostly in small towns and semiurban areas. These offices are mostly very small offices receiving or transmitting a few telegrams. The usage of Public telephone service at these offices for long distance telephone calls is also very meagre. Most of the offices do not justify for posting of a regular sweeper/cleaner or a regular telegraph messenger. In such places the works of sweeping, cleaning, delivery of Telegrams etc., were clubbed together and on the basis of the work load contract labourers are engaged to do those assorted jobs. Though the department made several efforts to see that the contracts are made with agencies but not with individuals, because of the geographical spread and remoteness of most of these offices, most of the labourers were engaged through individual contracts and in most cases the work allotted does not stretch beyond six hours. There are nearly 400 such contract labourers engaged in various Telegraph Offices and Telecom Centres in A.P.Telecom Circle.


ATTESTOR
विधि अधिकारी

LAW OFFICER

मु. म. प्र. दूरसंचार आ. प्र. का कार्यालय
O/o. C. G. M. Telecom, A. P.
हैदराबाद/Hyderabad-500 001.

Recd copy
22/7/98


DEPONENT

G. V. R. SETTY

A.G.M. (Legal)

for C.G.M. Telecom, A.P. Hyd.

3. It is submitted that the applicant in this OA is engaged as contract labourer for sweeping, scavenging, delivery of Telegrams etc. at Telecom Centre, Parnidi in Ananthapur Telecom District on a Monthly Contract renewable every month. As the workload entrusted to the applicant amounts to 6 hours a day, applicant is paid proportionate amount according to the work done by him.

4. It is submitted in reply to Para 6.1 of OA that the contention of the applicant that he is paid wages monthly equivalent to the pay and allowances to the post of telegraphman etc. in the group 'D' cadre is denied. Applicant is paid in proportion to the work done by him as per the contract agreed upon by the applicant with the Department.

5. It is submitted in reply to Para 6.ii that the allegation made by the applicant that he is being continued deliberately on casual basis is denied. As the applicants is being engaged on contract basis, he is not entitled to any benefits the Government and various courts extended to casual labourers. The casual labourers (Grant of Temporary Status and Regularisation) Scheme 1989 is applicable to only those casual labourers who were working as casual labourers as on 1.10.89 as per the judgement dated 30.4.98 of this Hon'ble Tribunal in OA 1080/95. The applicant had never worked as casual labourers before his engagement as contract labourer and hence the question of conversion of applicant from casual labourer to contract labourer does not arise at all. The applicant is engaged as contract labourer through individual contract without any intermediary agency because of the specific circumstances as submitted in para 2 above. However, such an irregular engagement DEHORS the rules does not give the benefit of regularisation to the applicant as per the Hon'ble Supreme Court of India in a catena of Judgements. ~~A list of 7 such cases is enclosed as Annexure R2.~~ In case of physically handicapped public telephone attendants in OA No 187/94 and batch they were absorbed as casual mazdoors on their option from the date of their initial engagement and then the scheme was made applicable to them and temporary status was granted to those who became eligible according to the scheme only. The work entrusted to the applicant is only


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DEPONENT

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A.G.M. (Legal)
for C.G.M. Telecom, A.P. Hyd.

of 6 hours, whereas the work of casual mazdoor is for 8 hours a day and as such applicant is not entitled for conversion as Casual Labourer.


6. It is submitted in reply to Para 6.iii, 6.iv and 6v that in obedience to the directions of this Hon'ble Tribunal in OA 890/96 and other cases the representations were considered in detail taking into consideration all the points raised by the applicants and the decision was communicated to the applicants vide Annexure A4 of OA.

7. It is submitted in reply to para 6(vi) that this Hon'ble Tribunal on 27.3.91 in OA No.367 of 1988 and Batch cases 1991(2) SLJ(CAT)175 held --

"The question whether an order of termination of a worker is illegal on the ground that there has been a violation of ID Act has to normally be raised by way of an industrial dispute before an Industrial Tribunal. This is the purport of the larger Bench decision of this Tribunal in 1991(1) SLR 245. Hence, if the applicants were aggrieved by the orders of termination they ought to and should have been raised an industrial dispute'.


8. Further, it is submitted that this Hon'ble Tribunal upheld the instructions of CGM Telecom through Ir.dated 31.7.95 to award contract to contract agencies upheld in OAs 230/96 on 26.06.96, OA 559/96 on 10.12.97 and OA 382/97 on 26.12.97. This Hyderabad Bench of Hon'ble C.A.T. comprising of **Hon'ble Justice Shri M.G. Chowdari, Vice Chairman** and **Hon'ble Shri H.Rajendra Prasad, Member (Admn.)** in OA 230/96 on 26.06.96, observed --

"[7] We also cannot although, we may have desired to do so, direct any employment even till a contract is assigned because of the tenor of the circular dated 31.7.95. Any such direction given will be violative of the clear instructions of the Department and its Policy and it is not possible to disregard the policy framed by the Competent Authority. **Moreover, the circular in question shows that it is intended to replace the casual labourers by an agency after calling for competent quotations for tenders and then**


ATTESTOR
14/12

LAW OFFICER

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DEPONENT
14/12
G. V. R. SETTY
A.G.M. (Legal)
for C.G.M. Telecom, A.P. Hyd.

awarding contract. Such policy cannot be said to be unreasonable."

(Emphasis added)

In OA 559/96 dated 10.12.1997 Hon'ble Shri R.RangaRajan, Member[Admn.] upheld the above view and in OA 382/97 dated 26.12.97 Hon'ble Shri H.Rajendra Prasad, Member(Admn) and Hon'ble Shri B.S.Jai Parameswar, Member(Judl.) also upheld the above view.

9. It is submitted that in reply to Para 6(viii) and 6(ix) that the impugned letter dated 10.04.97 was the reply given to the applicant in obedience to the directions of Hon'ble C.A.T., Hyderabad in OA 890/96 in accordance with law basing on the facts.

In view of the above, it is submitted that there is no merit in the OA. Hence, it is prayed that the Hon'ble Tribunal may be pleased to dismiss the OA, and pass such other order or orders as the Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

Solemnly sworn and signed
before me on this 14th day
of July, 1998 at Hyderabad.

[Signature]
ATTESTOR

विवि अधिकारी

LAW OFFICER

मु. म. प्र. दूरसंचार आ.प्र. का कार्यालय

O/o. C. G. M. Telecom, A. P.

हैदराबाद/Hyderabad 500 001.

[Signature]
DEPONENT

G. V. L. SETTY
A.G.M. (Legal)

for C.G.M. Telecom, A.P. Hyd.

produced by the Sr. Central Govt. Standing Counsel, arguments were addressed by the Sr. Central Govt. Standing Counsel in common to all these cases. The various counsel appearing for the applicants in the individual Original Applications also made submissions. However it is now noticed that various applications have varying, distinct and individual sets of facts which call for reply by the respondents and that reply statements in many of the cases have not been filed. Pleadings are complete only in this O.A. and in O.A.No.492/97. In O.A.No.764/97 notice before admission was given and a direction was given by order dated 20.8.97 to file detailed reply statement on issues specified in the order and despite adjournments given, the reply statement has not been filed and no order on admission has been made. In all the other 16 cases, though applications were admitted, reply statements were not filed and pleadings have not been taken as complete. According to Rule 12 of the C.A.T(Procedure) Rules, the contesting respondents have to file reply statement and produce documents in the form of paper-book with the Registry within one month from the date of receipt of notice on admission. However, it is provided in sub-rule(5) of Rule 12 that the Tribunal may allow filing of reply statement after expiry of the period prescribed. In the 16 applications as aforesaid there is no order either granting the respondents further time for filing reply statement or taking the pleadings as complete. No document which would enable the Tribunal to consider and dispose of the individual applications in the absence of pleadings also have been filed in these cases. When the matter was heard, the fact that reply statements in individual cases were not filed and that the pleadings were not complete, were

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CORAM:

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN

HON'BLE SHRI H.RAJENDRA PRASAD, MEMBER(ADMN.)

C.R.Ramamohan,
Casual Mazdoor in the
Telecom District Manager's office,
Anantapur.

..Applicant

(By Advocate Mr.C.Suryanarayana)

vs.

1. The Telecom District Manager,
Anantapur- 515050..
2. The Director General, Telecom,
(reptg. Union of India),
New Delhi-110 001.

(By Advocate Mr.V.Rajeswara Rao, Addl. CGSC)

The Application having been heard on 26.2.98, the Tribunal on
30.4.98 delivered the following

ORDER

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN:

This Original Application along with 18 other cases were listed for a joint hearing as it was felt that some common questions of law and facts were involved in all these cases. As a matter of fact some common questions as to whether the Industrial Disputes Act ('I.D.Act' for short) is applicable to the Department of Telecom, whether the scheme for grant of temporary status and regularisation evolved in the Department is an ongoing one or a one time dispensation for regularisation of casual labourers who were in existence on a particular date etc. would be germane for consideration in many of these cases. When the matter was taken up for hearing on the basis of a status paper


from 1.7.95 and to consider him for absorption in regular establishment in his turn granting him temporary status and regularisation in accordance with the scheme.

3. The respondents in their reply statement contend that the applicant was engaged as a contract worker, that he has not worked for more than 170 days in any year and that as the payment was made to him commensurate with the quantum of work, he is not entitled to be treated as a casual labourer. They further contend that the Hon'ble Supreme Court has held that the Department of Telecom is not an industry, the provisions of the I.D. Act is not applicable to the facts of the case. They contend that as the applicant is only a contract worker, the application is liable to be dismissed.

4. The applicant has—~~noting~~ the argument of the respondents in the reply statement that he was a contract worker, that he was not engaged on daily wages and that he had in no year worked for more than 170 days—produced the copies of A.C.G. 17 bills showing the details of his engagement. The Bench by order dated 16.12.97 had directed the respondents to react to what is contained in A.C.G. 17, as also to produce document if any which would show that the applicant was engaged in terms of a contract. The respondents despite several adjournments given in this regard did not file any statement nor did they produce any deed of contract. The learned counsel appearing for the respondents stated that no such contract as executed by the applicant was available. We have perused the pleadings and other material available on record as also the copies of

not adverted to either by the counsel in their arguments or by the Bench. It is now seen that for the proper disposal of the issues involved in the various cases, it is necessary that respondents should file reply statements or produce documents for contesting the individual applications. That in view of the matter, we find it impracticable to have a common disposal of these applications. O.A.Nos.1080/95 and 492/97 in which the pleadings are complete, will be disposed of now. The other O.As will be taken taken up individually and appropriate orders made.

2. In this application, the applicant who claims to have been employed under the first respondent's office with effect from 1.1.91 continuously with intermittent breaks, is aggrieved by the abrupt termination of his services with effect from 1.7.1995 verbally, without issuing a notice, and without following the mandatory provisions contained in Chapter V-A of the I.D.Act as also against the instructions contained in the order dated 1.10.1984 of the D.G, P&T, New Delhi. It is alleged in the application that in the year 1991 the applicant had been employed for 244 days, in 1992 for 291 days, in 1993 for 258 days, in 1994 for 294 days and in 1995 for 71 and 64 days. As the applicant claims to have completed 240 days of service in all these years, termination of his services without notice and without paying retrenchment compensation, being in violation of the mandatory provisions of Chapter V-A of the I.D.Act, and as the applicant has not been paid the due wages, the applicant prays that it may be declared that the termination of his services with effect from 1.7.1995 is violative of the provisions of Chapter V-A of the I.D.Act, and the respondents be directed to reinstate the applicant in service with effect



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labourer, but only on contract basis, payments being made commensurate with the work entrusted. The applicant has produced the copies of A.C.G.17 vouchers along with M.A.No.175/98. It is evident from the document that the applicant was engaged on daily wages continuously, that his first engagement was on 1.1.1991 and that upto and inclusive of the year 1994 he had been continuously engaged for more than 240 days in each year. Though sufficient time was given to the learned counsel for the respondents to produce evidence to show that the applicant was engaged on contract basis making payment commensurate with the work entrusted, and not as a daily-rated casual labourer, the respondents could not produce any evidence. The respondents did not file any reply statement disputing the authenticity of the copies of A.C.G. 17 vouchers produced by the applicant. Whether on muster roll or on A.C.G.17, if engagement is made on a daily rated-basis, the engagement is as a casual labourer and not as a piece-rate contract labourer. On the basis of the evidence available on record and in view of the failure on the part of the respondents to rebut the evidence produced by the applicant, we are convinced that the engagement of the applicant was not as a contract worker but was as a daily rated casual labourer during the period in question.

(b) As observed by us in the preceding paragraph, the copies of the A.C.G.17 vouchers produced by the applicant in unambiguous terms prove that in all the years from 1.1.91 till he was discharged abruptly with effect from 1.7.95, the applicant had been working far more than 240 days in a year. The case of the respondents therefore that in no year the applicant had worked for 170 days is found to be not true.

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A.C.G.17 vouchers produced by the applicant along with M.A.No.175/98 and heard the learned counsel appearing for the parties at considerable length.

5. The questions that arise for consideration for a proper adjudication of the issues involved in this application are:

- (a) Whether the engagement of the applicant till 1.7.95 had been as a daily-rated casual labourer or as a contract worker.
- (b) Whether the applicant has completed more than 240 days of service in any year.
- (c) Whether the verbal termination of the service of the applicant with effect from 1.7.95 is illegal in view of the provisions in Chapter V-A of the I.D.Act, 1947, and in view of the orders of the D.G., P&T dated 1.10.84.
- (d) Whether the applicant is entitled to the grant of temporary status and regularisation in accordance with the scheme for grant of temporary status and regularisation brought into effect from 7.11.89. *J. x.m.*
- (e) What relief, if any, the applicant is entitled to.

6. We shall now take up for consideration the above points in seriatim:

- (a) The applicant has averred in this application that he has been working from 1991 onwards as a casual labourer on daily wages. The respondents, on the other hand, have contended that the applicant was engaged only with effect from 1.1.92, that he had in no year worked for more than 170 days and that he was not engaged as a daily rated casual

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Learned counsel of the respondents argued that it has been held by the Hon'ble Supreme Court in AIR 1997 SC 2817 that the Telecom Department is not an industry. However in a later case, General Manager, Telecom vs. S. Srinivasa Rao and others, AIR 1998 SC 656, it has been conclusively held that the Telecom Department is an industry overruling the earlier view. Therefore the applicant, having been working as a daily-rated casual labourer, and having rendered more than 240 days a year right from the year 1991, the termination of his services without notice and without payment of compensation as required under Section 25F of the I.D. Act is illegal, unjustified and therefore void.

(e) The applicant has claimed that he is entitled to be granted temporary status and regularisation in accordance with the scheme brought into effect from 1.10.89 by the D.G., Telecom letter No. 269-10/89-STN dated 7.11.89 (Annexure A3). Learned counsel of the respondents argued that as the scheme was evolved for the purpose of granting temporary status and regularisation of the casual-labourers employed by the Telecom Department and currently working on 1.10.89, the applicant who was engaged for the first time even according to him on 1.1.91 is not entitled to the benefit of the scheme. Learned counsel of the applicant on the other hand argued that the scheme is a continuing one and all casual labourers who come under the employment of the Telecom Department even after the date of commencement of the scheme are entitled to the benefit of temporary status on completion of 240 days of service and for regularisation on Group D posts in their turn in accordance with the scheme. To ascertain whether the scheme is a continuous one or one evolved for the grant of the benefit of temporary status and regularisation to casual labourers who were already in employment on 1.10.89, it is necessary to carefully examine

(c) Annexure A1 is a copy of the letter of D.G., P&T No. 269/130/78-STN dated 1.10.1984 which reads as follows:

" In order to implement certain judgments in respect of Casual Mazdoors, the question of issuing notice of one month or payment of wages in lieu thereof to Casual Mazdoors whose services are terminated by the Department has been engaging the attention of this Directorate for sometime past. It has now been decided that such of the Casual Mazdoors who serve the Department for at least a total period of 240 days in a year and whose services are proposed to be terminated by the Department shall be served a notice of one month before termination of their service and one month wages in lieu thereof be paid to them.

2. The above orders take effect from the date of issue."

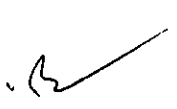
The respondents in their reply statement did not dispute that D.G. has issued the Annexure A1 letter, but they contend that the direction in the letter is not applicable to the applicant as he was not a casual labourer, but only a contract worker. This contention has been rejected by us as observed in the preceding paragraph. Therefore the termination of the service of the applicant with effect from 1.7.95 without issuing a notice as mentioned in the letter dated 1.10.1985 of the D.G., P&T, is undoubtedly in contravention of the instructions contained in the letter.

(d) As the applicant has been serving for more than 240 days in a year, the termination of his services without notice and payment of retrenchment compensation is in violation of the provisions contained in Section 25F of the I.D.Act.

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provisions of the scheme it is idle to contend that the scheme is a continuing one and not a special dispensation intended to benefit the casual labourers who were in employment on 1.10.89. Learned counsel of the applicant invited our attention to the ruling of the Supreme Court in Ram Gopal and others vs. Union of India & others, Writ Petition (c) No.1280 of 1989 wherein a direction was given to the Telecom Department to prepare a scheme on a rational basis for absorption of the casual labourers who have been continuously working for more than one year in the Posts and Telegraphs Department within 6 months from the date of the order. Learned counsel stated that the applicants before the Supreme Court were also similarly situated like the applicants. He also brought to our notice the letter of the Government of India, Department of Posts No.66-52/92-SPB-1 dated 1.11.1995 whereby pursuant to the judgment of the Central Administrative Tribunal, Ernakulam Bench in O.A.No.750 of 1994, it was decided that full-time casual labourers recruited after 29.11.1989 and upto 10.9.1993 were also to be considered for the grant of the benefit of temporary status under a scheme brought into effect in the Department of Posts. As the Department of Posts and Department of Telecom were earlier one Department and the scheme for temporary status and regularisation was evolved pursuant to the ruling of the Supreme Court in Daily Rated Casual Labour employed under P&T Department vs. Union of India, AIR 1997 SC 2342, it is necessary that the Telecom Department should also extend the benefit of the scheme to the casual labourers recruited upto 10.9.1993, argued the counsel. He also stated that considering the fact that the Department of Telecom is going



the provisions of the scheme. Sub-paragraph A of paragraph 4 of the scheme reads as follows:

"A) Vacancies in the Group 'D' Cadres in various offices of the Department of Telecommunications would be exclusively filled by regularisation of casual labourers and no outsiders would be appointed to the cadre except in the case of appointments on compassionate grounds, till the absorption of all existing casual labourers fulfilling the eligibility conditions including the educational qualifications prescribed in the relevant Recruitment Rules."

(emphasis supplied)

The above excerpt from the scheme would indicate that the scheme was intended to benefit the casual labourer who were in existence on the date on which the scheme was brought into effect because the filling up of the vacancies in Group D cadre in various Departments of Telecom by any other method than regularisation of the casual labourer with an exception of compassionate appointment has been prohibited till absorption of all existing casual labourers was complete. Sub paragraph 1 of paragraph 5 reads as follows:

"i) Temporary status would be conferred on all the casual labourers currently employed and who have rendered a continuous service of atleast one year, out of which they must have been engaged on work for a period of 240 days (206 days in the case of offices observing five day week). Such casual labourers will be designated as Temporary Mazdoor."

(emphasis supplied)

The use of the words "currently employed" also makes it evident that the intention was to confer temporary status on casual labourers who were in employment on 1.10.89. In the light of these two

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is entitled to have the termination of service set aside as illegal and unjust. As the applicant has already been reengaged and is continuing in employment pursuant to the interim order of the Tribunal dated 12.9.95 we are of the considered view that the interest of justice will be met if the respondents are directed to continue him in casual service so long as work is available and that if retrenchment happens to be necessary it shall be done solely in accordance with the provisions contained in the I.D.Act. Regarding the grant of temporary status and regularisation as the applicant was not currently employed as on 1.10.89 when the existing scheme for grant of temporary status and regularisation to the casual labourers of the Telecom Department was brought into force, the applicant will not be entitled to the benefit of the scheme. Considering the fact that despite orders to the contrary issued periodically by the D.G., the lower formations in the department are going on engaging casual labourers, we are of the considered view that the Government should consider the desirability of extending the benefit of the existing scheme to casual labourers engaged beyond 1.10.1989 also, as was done in the Postal Department by letter of D.G., Posts dated 1.11.1995.

7. In the result, in the light of what is stated above, the application is allowed. The termination of the services of the applicant with effect from 1.7.95 is declared as null and void. As the applicant has already been reinstated in service, the respondents are directed to continue him as casual labourer as long as work is available and if retrenchment of the service of the applicant happens to be necessary, to do so strictly in accordance with the provisions contained in Chapter V-A

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on engaging casual labourer despite the repeated instructions issued by the Director General from time to time to stop the practice, it can be seen that it is difficult to do away the system of casual labourer in the nature of activities of the Department and that therefore it is necessary that, like the Railways, the Department of Telecom should frame rules for grant of temporary status and regularisation of casual labourer as a continuous and permanent measure. The argument sounds attractive and reasonable, but the scheme which is in existence undoubtedly is a special dispensation to benefit the casual labourers who were currently employed as on 1.10.89. Those who commenced casual service thereafter do not come within the ambit of the scheme. Taking into account of the fact that despite repeated instructions by the D.G., Posts and D.G., Telecom to dispense with the system of engaging casual labour in practice over a period of time, it has been found practically impossible to abandon the system, we are of the considered view that it is high time for the Govt. to consider the desirability of making some scheme or framing rules for grant of temporary status and regularisation to casual labourer who were engaged and continued for a long time or extending the benefit of the existing scheme to the casual labourers who were engaged after 1.10.1989, as was done in the case of the Postal Department. We leave it to the Government to take an appropriate decision in this matter.

f) In view of the finding that the Telecom Department is an industry and the termination of service of the applicant with effect from 1.7.95 was in violation of the provisions of Section 25 F of the I.D. Act, the applicant

of the I.D. Act. The claim of the applicant for temporary status and regularisation is not granted as the scheme, as it stands, does not apply to casual labourers who were not currently employed on 1.10.89. However, the respondents are directed to consider the desirability of extending the benefit of the scheme to casual labourers who were recruited after 1.10.89 also, as was done by the D.G., Posts in the Postal Department or to consider the formation of a scheme for grant of temporary status and regularisation as in the case of Railways, if the requirement of engagement of casual labourer cannot be dispensed with taking into account the nature of the activities of the Department in the light of the fact that despite instructions to stop the practice of engagement of casual labourers, the system is continuing even now. There is no order as to costs.

प्रमाणित प्रति
CERTIFIED TO BE TRUE COPY

न्यायालय अतिरिक्त/चौक रजिस्ट्रार (न्यायिक)
Court Officer/Dy. Registrar
केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
हैदराबाद न्यायपीठ
HYDERABAD BENCH

and the applicant-3 was engaged as Attender/Messenger/office boy from 29-6-92 ~~xx~~ on hourly wage basis at Telecom Centre, Maharanipet, Visakhapatnam. Applicant-3 was later on transferred to Akkayyapalem, Telegraph Office.

3. Part time engagement of the first applicant did not continue after August, 95. Likewise engagement of Applicant -2 did not continue after August 95. Applicant-3 however, was disengaged on 19-6-1993.

4. On 31-7-95 the office of the Chief General Manager, Telecom, AP Circle, issued an office circular instructing the various offices of Telecom Department that engagement of Part-time/Individual Contract labours/Casual labours on any pretext whatsoever was irregular after 22-6-1988 and should not be resorted to and the irregular employment already made should be dispensed with immediately. It appears that in view of these instructions Applicants 1, and 2 have not been further engaged.

✓ 5. The applicants in this OA challenged the above mentioned circular dated 31-7-1995 on the ground that it is arbitrary, illegal and void. They pray that therefore the respondents may be directed to engage them as part-time casual employees. The Circular dated 31-7-95 is based upon the instructions and provisions contained in DCT letter No.270/6/84 Stn. dated 30-3-85 and 269-4/93-Stn.II dated ✓ 17-12-1993 (Relat^{ing} to the cut-off dates - 30-3-85 and ✓ 22-8-85). The circular shows^{that} despite these instructions parttime engagement of casual labour^a was being resorted ✓ to and therefore a serious view of^{that} irregularity has been ✓ taken and the officers resorting to these practice have been warned that in such cases sole responsibility will lie personally on them in the event of any decisions happened to be given by the Tribunal in favour of such irregularly employed labours.

will

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH

AT HYDERABAD

OA. 238/96

dated : 26 June, 96

Between

1. B. Suri
 2. K. Narasimham
 3. Chandaka Appa Rao
- : Applicants

and

1. The Chief General Manager
Telecommunications, AP Circle
Doorsanchar Bhavan
Nampalli Station Road
Hyderabad-1

2. The Director (Telegraph Traffic)
Doorsanchar Bhavan
Nampalli Station Road
Hyderabad 1

3. General Manager
Telecom District, Dhaba Gardens
Visakhapatnam 20

: Respondents

Counsel for the applicants : M.P. Chandra Mauli
Advocate

Counsel for the respondents : V. Rajeswara Rao
SC for Central Govt.

CORAM

HON. MR. JUSTICE M.G. CHAUDHARI, VICE CHAIRMAN

HON. MR. H. RAJENDRA PRASAD, MEMBER (ADMN.)

Judgement

Oral Order (per Hon. Mr. Justice M.G. Chaudhari, VC)

Heard Mr. Chandra Mauli for the applicants. Heard
Mr. Rajeswara Rao for the respondents.

2. The first applicant was engaged as water boy and
sweeper in the office of Respondent - 3 on 13-1-93 as
part-time employee on remuneration of Rs.3.60 per hour for
eight hours a day. Similarly Applicant-2 was engaged on
24-4-1994 as Watchman and sweeper on hourly rate of wages.

9. As far as the applicant-3 is concerned he was disengaged on 19-6-1993. Circular dated 31-7-1995, therefore can have no relevance to this case. He has also not challenged the action of disengaging him in 1993 nor not engaging him thereafter. The question of engaging him now is squarely covered by the circular and no relief therefore can be granted to him.
10. For the foregoing reasons the OA is dismissed. No order as to costs.

प्रमाणित प्रति
CERTIFIED TO BE TRUE COPY

[Signature] 5/2/96

न्यायाधीश सचिव
COURT OFFICER
केन्द्र प्रशासनिक न्यायालय
Central Administrative Tribunal
इन्दौर बेंच
INDORE BENCH

sk

Case No.	
Date	
Copy No.	
<i>[Signature]</i> 5/2/96	

6. It is contended by the learned counsel for the applicants that the instructions are discriminatory and also unreasonable as ~~such~~ no contractors are coming forward ^{despite} ~~and dispute~~ ^{being} the work if available. It is unjust to deny employment to the workers who are willing to work on small remuneration and they need not be left without any employment. ~~Wherever~~ ^{however} we cannot go into the question of validity of the instructions because instruction dated 31-7-1995 are based upon the DCT letters, first of which was issued on 30-11-1985. ^{Besides that} ~~But the said~~ instructions are not subject matters of ^{the OA} ~~instructions~~ nor Government of India through its Telecommunications Department, is party to this OA.

7. We also cannot, although we may have desired to ~~do so~~, direct any employment even till a contract is assigned because of the ^{tenor} ~~tenure~~ of the circular dated 31-7-1995. Any such direction given will be violative of ^{the} ~~all~~ clear instructions of ^{the} ~~A~~ Department and its policy and it is not possible to direct the Departments to disregard the policy framed by the competent authority. Moreover the circular in question shows that it is intended to replace the casual labours by an agency after calling for competent quotations for tenders and then ^{awarding} ~~avoid~~ contract. Such policy ~~is not reasonable~~ ^{cannot be said to be unreasonable}

8. Mr. Rajeswara Rao for the respondents submitted that in so far as the offices where the applicant 1 and 2 were working contract, have already been ^{awarded} ~~awarded~~. Thus, there is no scope for the ~~said~~ applicants being engaged. Although, therefore, we are sympathetic to the predicament of the applicants, we are unable to grant any relief to them as ^{none is} ~~is known~~ as capable of being granted legally.

ORDER

ORAL ORDER (PER HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.))

None for the applicants. Heard Mr.N.R.Devaraj, learned counsel for the respondents.

2. There are 15 applicants in this OA. They stated that they were engaged as Casual Labourers from 2nd February, 1988. Annexure-I shows that the date ~~at~~ from which they are working and the place of working. In this Annexure only applicant No.15 is working from 1988 onwards whereas others from the date much later than 1988. The applicants submit that they are Casual Labourers and hence they should be engaged in terms of the letter No.269-10/89-STN, dated 7-11-89 (Annexure-II) treating them as Casual Labourers. The issue of the letter No.TA/TFC/20-1/92/PT/KW dt. 31-7-95 (Annexure-III) has ~~not~~ relevance in the challenge issue of the letter.

3. This OA is filed praying for a direction to the respondents herein to grant Temporary Status and Regularisation of their services by extending the Casual Labourers (Grant of Temporary Status and Regularisation) Scheme, 1989 to them by declaring the letter No.TA/TFC/20-1/92/PT/KW/16 dt. 31-7-95 as illegal, arbitrary and unconstitutional and to set aside the same and to grant them all consequential benefits such as arrears of pay and allowances, seniority promotions etc.

4. A reply has been filed in this OA. The main thrust of the reply is that the recruitment of part time officials was banned from 31-3-85 and by the impugned letter No.TA/TFC/20-1/92/PT/KW/16 dt. 31-7-95 it was decided to get the part time job viz., sweeping, fetching water and farashing etc. at Telegraph offices done through contract agencies by calling quotations. It was also

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

C.A. 559/96.

Dt. of Decision : 10-12-97.

1. S. Sivanandam
2. T. Lakshminarayana
3. Guduru Dastagiri
4. Paraya Venkata Rama Subbaiah
5. Pachangam Naga Raj
6. Pendly Srinivasulu
7. Peddabaluguri Thirupathi
8. Dasetty Chandrasekhar
9. Addakula Appanna
10. Jestadi Livingstonpanthul
11. Shaik Babafajuruddin
12. Lingala Ramana Reddy
13. Pula Nagamanamma
14. G.C. Reddappa Reddy
15. P. James Babu



.. Applicants.

Vs

1. The Telecom Commission,
Rep. by Chairman,
Telecommunications,
New Delhi.
2. The Director General,
Telecommunications, New Delhi.
3. The Chief General Manager,
Telecommunications, AP Circle,
Abids, Hyderabad.
4. The Dy. General Manager (Admn.)
O/o the CGMT, Telecommunications,
A.P. Circle, Abids, Hyderabad.
5. The Telecom Dist. Manager,
Dept. of Telecommunications,
Cuddapah.

10/8/97
Date/Date.....

.. Respondents.

Counsel for the applicants : Mr. V. Venkateswara Rao
Counsel for the respondents : Mr. N. R. Devaraj, Sr. CGSC.

CORAM:

THE HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.)

A call

Talked to
CAM

PD for...
inter A NO.

48-15-CHCTO/97-L

29.12.97

16 CHT/98 STN
15/1/98

3/1/98
5/1/98

ADG STN
ADG (Legal)

4/1/98

..2
21.12.97

challenged the above mentioned circular dt. 31-7-95 on the ground that it is illegal and void. They therefore prayed that the respondents may be directed to engage them as casual employees/^(or) grant them temporary status and regularise them in their turn. ~~XXXXXXXXXX~~

7. I have read this judgement of this Tribunal in OA. 230/96 delivered on 26-6-96. The prayer in that OA is also similar to the prayer in this OA. In that OA also the letter dated 31-7-95 was challenged on the same ground and also relief was asked for in that OA to take applicants in that OA ~~regularly~~ regularly as casual labourers. The judgement in OA.230/96 clearly analysed the various reasons for not setting aside the letter dated 31-7-95 and also reasons have been incorporated for not granting the relief as prayed for in that OA. As the applicants in this OA are similarly placed/^{as} the applicant in OA.230/96 and the prayer and contentions also similar I rely on the judgement for reasons stated therein. I do not see any reason to differ from the judgement in OA.230/96.

8. In view of that is stated above this OA is also liable to be dismissed. Accordingly, it is dismissed. No costs.

प्रमाणित प्रति
CERTIFIED TO BE TRUE COPY

[Signature]
न्यायालय अधिकारी/टप रजिस्ट्रार (न्यायिक)
Court Officer/Dy. Registrar
केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
हैदराबाद ब्याच
HYDERABAD BENCH

केस संख्या	CASE NUMBER	OA.559/96
निर्णय का तारीख	Date of Judgment	10/12/97
कॉपी बनाई गई तारीख	Copy Made On	17/12/97
<i>[Signature]</i> न्यायालय अधिकारी/टप रजिस्ट्रार (न्यायिक) Court Officer (J)/Dy. Registrar (J)		

further decided to dispense with all the part time employee/ casual mazdoors who were engaged for the above works. Accordingly, the work viz., sweeping, fetching water, farashing and delivery of telegrams at Telegraph offices/Telecom Centres at Cuddapah, Proddutur and Rajampet was being got done through contract agencies and paid on ACG 17 and vouchers are countersigned by the competent authority. It is also stated that the applicants herein belong to Cuddapah SSA and they were engaged in Telegraph offices and Telecom Centres through contract agencies. Hence the scheme for regularisation and grant of temporary status does not apply to the applicants herein as they are engaged through contract agencies. The respondents also relying on the judgement of this Tribunal in OA.230/96 dated 26-06-96 to state that the said OA is an identical one and similar relief was prayed in that OA and that relief was rejected. Hence they submit that this OA is also liable to be rejected.

5. The applicants in this OA has not filed any rejoinder. There is no record enclosed to the OA to show that they were engaged as a departmental casual labourers in the said Telegraph Office. Hence it has to be held that the statement of the respondents that they were engaged through contractors has to be accepted.

6. On 31-7-95 a circular was issued instructing various offices of the Telecom department ^{that} for engagement of part-time/individual ^{Contract} Central labourers/Casual Labourers, on any pretext whatsoever, after 22-6-88 ^{was irregular} and should not have resorted to. Such indiscriminate and irregular employment already made should be dispensed with immediately. It appears that in view of these instructions the services of the applicants were not considered for grant of temporary status and regularisation in accordance with the scheme referred to above. The applicants in this OA

A

ORDER

(PER HON'BLE SRI B.S. JAI PARAMESHWAR: MEMBER (JUDL.))

1. Heard Sri C. Suryanarayana, learned counsel for the applicants and Sri N.R. Devaraj, the learned standing counsel for the Respondents.
2. This is an application under Section 19 of the Administrative Tribunals Act. The application is filed on 31.3.1997.
3. The applicants herein were working as casual labourers in the Telecommunications Department, Hyderabad. They were retrenched from their work. Then the applicants had filed applications before this Tribunal in OA 851 to 863 and 867 of 1993. The said OAs were decided on 31.3.1995. This Tribunal in the said O.As gave the following directions to the Respondents as under:-

" In the result, the application is disposed of with a direction to the respondents to include the name of the applicant at an appropriate place commensurate with the length of his service in the list of casual mazdoors kept under the fourth respondent and to re-engage the applicant as and when work becomes available anywhere in the division in preference to casual mazdoors with lesser length of casual service than the applicant.

"
4. The Respondents invited tenders for house-keeping cleaning of compound, etc. cleaning of engines, battery, power plant etc. at the office of the DM, STSR, Hyderabad (Annexure-8).
5. Being aggrieved by the said invitation of tenders, the applicants have filed this OA for the following reliefs:-

"

To call for the records relating to the impugned order No.GMM/STR BG/STE-18/95-97/13, dated 17.7.76 read with the 2nd respondent's tender notice

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

O.A. No. 382 of 1997

Date of Decision: 26.12.1997

Between:

1. R. Narasimhulu
2. A. Rajamouli,
3. C.S. Samuel Moses,
4. N. Rambabu
5. P.S.N.V. Phani Prasad,
6. Sk. Ismail,
7. S. Rajender,
8. L.T.B. Srinivas,
9. T. Mohan,
10. K. Ramanaiah,
11. B. Prakash
12. S.A. Khaleel,
13. P.V. Subbaiah,
14. PMV Ramana Reddy



.. Applicants

AND

1. Divisional Engineer, Telecom,
Microwave Maintenance,
3rd Floor, Telephone Bhawan,
Saifabad, Hyderabad.
2. The Director, Maintenance, STSR,
No.6-1-85/18, 2nd Floor, Sai Nilayam,
Saifabad, Hyderabad-500 004.
3. The General Manager, Maintenance,
STR, Infantry Road, Grace Mansion,
Bangalore - 560 001;
4. The General Manager, Telecom
District, Suryalok Complex;
Hyderabad - 500 033
5. The Telecom District Manager,
Sanga Reddy - 502 050;
6. The Chief General Manager,
Telecom, AP Circle,
Hyderabad-500 001;
7. Union of India rep. by
the Director-General, Telecom,
Sanchar Bhavan,
New Delhi - 110 001

.. Respondents

Counsel for the Applicants: Mr. C. Suryanarayana

Counsel for the Respondents: Mr. N.R. Devaraj

CORAM:

THE HON'BLE SRI H. RAJENDRA PRASAD: MEMBER (ADMN.)

THE HON'BLE SRI B.S. JAI PARAMESHWAR: MEMBER (AUDL.)

7. The Respondents have filed their counter stating that the applicants could not be re-engaged because of the existence of ban for re-engagement of Casual Labourers that the applicants were terminated after observing the usual formalities and were paid compensation in lieu of a month's notice that the Respondents are not de-barred from entering into contract on a comprehensive basis that the regular employees who were discharging the work specified in the tender were promoted as phone mechanics that then the department proposed to extract the work through tender on a comprehensive basis, that since there was ban on the recruitment of casual labourers the question of appointing the applicants as casual Mazdoors does not arise and that inviting tender on comprehensive basis cannot be regarded as violative of directions given by this Tribunal.

8. The learned counsel during the course of his arguments contended that actually ban is not at all in existence that the work specified in the tender could be extracted from the applicants by re-engaging them in accordance with the directions of this Tribunal that when the Respondents have maintained the live register of retrenched casual mazdoors and when there is work it was not justified for the respondents to invite tenders for similar works that the Respondents have not maintained the live Register on the basis of the Seniority that the tender invited is illegal that the applicants are eligible to be reinstated and continued in service.

As against this, the learned counsel for the respondents mainly contended that they were compelled to invite tender since there was ban for re-engagement of casual mazdoors and that the applicants were paid compensation at the time of their termination and at the present existing circumstances they cannot be re-employed.

R

(Annexures A-3 and A-8 respectively) and to quash the same with consequential directions to re-engage the applicants as directed by this Hon'ble Tribunal besides declaring that it is illegal, unwholesome and also unfair labour practice in terms of item 5(a) and (b) and also item 6 of Part I of the Fifth Schedule to the Industrial Disputes Act, 1947 to engage casual labour and to take action against the Respondent-authorities not only for violating the directions of the Hon'ble Tribunal but also for indulging in unfair labour practice and consequently to award exemplary costs to the applicants besides directing the re-engagement and continuance of their services in preference to contract labour or outsiders or their juniors with less number of days of service than any of the applicants herein.

Their main contention is that the work sought to be entrusted through the tender is violative of the prohibitory order in Annexure-I (Notification No.U-23013(7)/76-LW, dated 8/9.12.1976. It has been held to be valid vide para-29 of the judgment of the Hon'ble Apex Court in the case of "Air India Statutory Corporation Vs. United Labour Union" reported in AIR 1997 Supreme Court 645 that the action of the Respondents in inviting the tender is violative of Section 25-H of the Industrial Disputes Act and the directions given by this Tribunal (Extracted above) that inviting the tender is also violative of letter Dt.7.2.86 (Annexure-9) and ^{that} the engagement of contract labour even when workers could be employed directly according to the text laid down in Sec. 10(s) of the Contract Labour (Regulation & Abolition) Act, 1970) is an unfair labour practice as it was held in the case of "Gujarat Electricity Board Vs Mazdoor Sabha, (1995 Supreme Court Cases (L&S) 1166.

in OA 230/96.

14. Therefore in our humble view , we cannot interfere with the policy of the Department in inviting tender for the works specified in Annexure-8.

15. The other contention of the applicants is that the Department has not maintained the live register seniority wise. We feel that the Respondents are expected to maintain the live Register of retrenched casual mazdoors seniority wise and the same is necessary to adhere to for re-engagement, in case, the ban is lifted. Therefore we feel it proper to direct the Respondents to maintain the live register of the retrenched casual mazdoors, senioritywise and upto date.

16. The Respondents may consider the case of the applicants for reengagement when the ban is lifted. We have no doubt in our mind that the Respondents will consider the case of the applicants as per the rules in force for purposes of reengagement and their regularisation after the ban is lifted.

17. We are not persuaded to hold ^{that} / inviting tender is violative of the circular instructions Dt.7.2.86.

18. In the light of above discussion, we cannot give any relief to the applicants except directing the Respondents to maintain the live register of Retrenched Casual Mazdoor seniority wise and upto date to consider the case for re-engagement of the applicants as per rules when the ban is removed, and when there is work in the Department.

With the above directions the OA is disposed of.
No order as to costs.

प्रमाणित प्रति
CERTIFIED TO BE TRUE COPY
J. Sune
आचार्य प्रविनाशे देव रजिस्ट्रार (न्यायिक)
Court Officer/Dy. Registrar
केन्द्रिय प्रशासनिक अधिकरण
Central Administrative Tribunal
हैदराबाद बेंच
HYDERABAD BENCH

केस संख्या
CASE NUMBER - 61/382
निर्णय दिनांक
26/12
26/12
30/12
Section

40

10. Annexure-I, notification dated 8/9.12.1976 clearly prohibits employment of contract labour on and from 1.3.1977 for sweeping, cleaning, dusting and washing buildings owned or occupied by the establishments in respect of which appropriate Government under the said Act is the Central Government.

11. The fact that there is a ban for reengagement of casual mazdoor in the Telecommunication Department is admitted. However, the learned counsel for the applicant attempted to contend that ban is not at all in existence. If that was so he should have produced the order lifting the ban imposed as per Annexure A-1. In the absence of any such proof only conclusion is that it is in existence.

12. As regards the Department inviting the tender for certain works the learned counsel for the Respondents relied upon the decision of this Tribunal in OA No.230/96 decided on 26.6.96. In para-7 this Tribunal has observed as follows:-

" We also cannot, although we may have desire to do so, direct any employment even till a contract is assigned because of the tenor of the circular dated 31.7.1995. Any such direction given will be violative of the clear instructions of the Department and its policy and it is not possible to direct the Department to disregard the policy framed by the competent authority. Moreover the circular in question shows that it is intended to replace the casual labours by an agency after calling for competent quotations for tenders and then awarding contract. Such policy cannot be said to be unreasonable. "

13. Besides, the learned counsel for the respondents brought to our notice that this Tribunal in similar circumstances upheld the action of the Respondents in inviting tenders by relying upon the observations made above in OA No.599/96 decided on 10.12.1997. The said OA was decided following the decision

- 6] **1997 SCC (L&S) 902** (Before K.Ramaswamy and G.T.Nanavathi JJ)
Between: State of U.P. and Others Vs. Ajay Kumar
C.A.No.1568 of 1997 Decided on 17.2.97

Para 3 Daily wage appointment will obviously be in relation to contingent establishment in which there cannot exist any Post and it continues so long as the work exists. Under these circumstances the division Bench was clearly in error in directing the appellant to regularise the services of the respondent to the post as and when the vacancy arises and to continue him until then...

- 7] **1997 SCC (L&S) 1079** (Before K.Ramaswamy and D.P.Wadhwa JJ)
Between: Himansu Kumar Vidyarthi and Others Vs. State of Bihar and Others
SLP(C) No.7957 of 1996 (C.A.No.6908 of 1996) Decided on 26.03.97

Para 3... Admittedly they were not appointed to the posts in accordance with the rules but were engaged on the basis of need of the work. They are temporary employees working on daily wages under these circumstances, their disengagement from service cannot be construed to be a retrenchment under the industrial disputes act.....Since they are only daily wage employees and have no right to Posts, their disengagement is not arbitrary.

CASE LAW ON CALUAL LABOUR REGULARISATION

- 1] **1997 SCC (L&S) 331**
(Before K.Ramaswamy and Faizan Uddin JJ)
SLP (C) No.16725 of 1996 Decided on 04.09.96
Between E.Ramakrishnan and Others Vs. State of Kerala and Others

Petitioners appointed de hors the said rule although officiating for a long period (14 years in this case) rightly refused the relief of regularisation by the High Court.

- 2] **1997 SCC (L&S) 210**
(Before A.M.Ahmadi CJ and Sujata V.Manohar J)
Between: State of Haryana and Others Vs. Jasmer Singh and Others
C.A.Nos. 14223 of 1996 with 14224-14362 of 1996 Decided on 7.11.96

Regularisation of daily rated workman who had completed certain Number of years of service, held, is a Policy matter to be decided by the State.

- 3] **1997 SCC (L&S) 478**
(Before K.Ramaswamy and G.B. Patnaik JJ)
Between: U.O.I. and Others Vs. S.Bishamser Dutt
C.A.Nos. 14528-30 of 1996 Decided on 23.10.96

Persons appointed as Part-time employees de hors the rules, even though Regularly working for a long time are not entitled for regularisation.

- 4] **1997 SCC (L&S) 726**
(Before S.C.Agarwal and G.T.Nanavathi JJ)
Between: H.P.Housing Board Vs. OM PAL and Others
C.A.Nos. 13721-22 of 1996 Decided on 1.11.96

Para 8The question of regularisation of the respondents could arise only if the termination of their services with effect from 1.12.1990 was found to be invalid.

- 5] **1997 SCC (L &S) 844**
(Before K.Ramaswamy and G.T. Nanavathi JJ)
Between: State of Haryana Vs. Surinder Kumar and Others
C.A.No. 1969-70 of 1997 dated 10.03.97

Para 5.....obviously the respondents' recruitment was not made in accordance with the rules. This Court has also pointed out in State of Haryana Vs. Jasmer Singh in that behalf. If any illegal actions have been taken by the officers after recruitment, it would be a grave matter of indiscipline by the officers and the higher authorities are directed to look into the matter and see that such actions are rectified, but that would not be a matter for this Court to give legitimacy to illegal acts done by the officers to grant relief on the basis of wrong or illegal actions of superior officers.....

CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

O.A. NO: 258 OF 1997

REPLY AFFIDAVIT / WRITTEN
STATEMENT

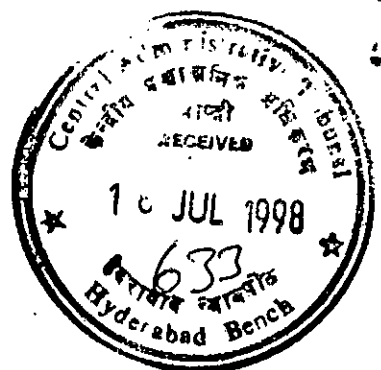
FILED ON BEHALF OF
RESPONDENT(S) NO:

FILED ON:

16/7/98

FILED BY:

V. RAJESWARA RAO
ADDL. C.G.S.C.
S.C. FOR RAILWAYS



Copy is filed
16/7/98

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH HYDERABAD

O.A.NO.1258/97

Between:

Dt. of Order: 29.9.97.

H.Subba Rao

...Applicant.

And

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 Telecom District Manager, Dept. of Telecom, Ananthapur.

...Respondents.

Counsel for the applicant : Mr.V.Venkateswara Rao

Counsel for the Respondents : Mr.K.Ramulu

CORAM:


THE HON'BLE SHRI H.RAJENDRA PRASAD : MEMBER (A)

THE TRIBUNAL MADE THE FOLLOWING ORDER:

Heard Mr.V.Venkateswara Rao for the applicant, who is aggrieved by the impugned order issued by the CGM whereas representation submitted by the applicant was addressed to the DG. Ms.Shyama was also heard for the respondents.

A detailed reply is required to be filed in this case. for which four weeks are given. In the mean while Ms.Shyama undertakes to seek instructions and make submissions within a week. List it next tuesday.

In the meanwhile, the services of the applicant shall not be terminated or he shall not be dis-engaged until further orders.


DEPUTY REGISTRAR(J)

..2..

Copy to:

1. The Chairman, Telecom Commission, New Delhi.
2. The Director General, Telecommunications, New Delhi.
3. The Chief General Manager, Telecommunications,
A.P.Circle, Abads, Hyderabad.
4. The Telecom District Manager, Dept. of Telecom,
Ananthapur.
- ✓ 5. One copy to Mr.V.Venkateswara Rao, Advocate, CAT, Hyderabad.
6. One copy to Mr.K.Ramulu, Addl.CGSC, CAT, Hyderabad.
7. One duplicate copy.

YLKR

cc today

TYPED BY
COMPOSED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD

H. Rajendra Prasad
THE HON'BLE SHRI ~~C. R. NARAYAN~~: M(A)

AND

THE HON'BLE SHRI B.S. JAI PRAKASHJIWAR :
M (J)

Dated: 29/9/82

ORDER/JUDGMENT

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

in
O.A.NO. 1258/97

Admitted and Interim Directions
Issued.

Allowed

Disposed of with Directions

Dismissed

Dismissed as withdrawn

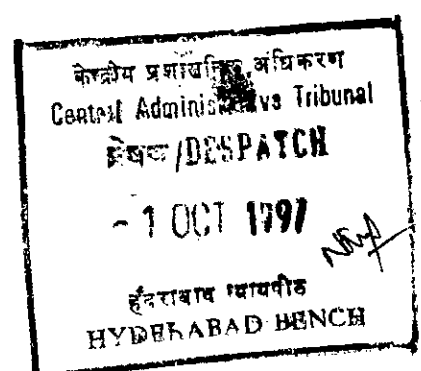
Dismissed for Default

Ordered/Rejected

No order as to costs.

YLKR

II Court



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD

O.A.NO. 1258/97.

Date of Order: 14-10-97.

Between:

H.Subba Rao.

and

.. Applicant.

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 Telecom Dist.Manager,
Dept.of Telecom, Anantapur.

.. Respondents.

For the Applicant: Mr. V.Venkateswar Rao, Advocate.

For the Respondents: Mr. K.Ramulu, Addl.CGSC.

CORAM:

THE HON'BLE MR.H.RAJENDRA PRASAD : MEMBER(ADMN)

The Tribunal made the following Order:-

To be listed next week at the request of the
counsel for the respondents.

Interim order dated 29-9-97 to continue.


Deputy Registrar.

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 ~~Director General~~ Telecom Dist.Manager, Dept.of Telecom,
Anantapur.
5. One copy to Mr. V. Venkateswar Rao, Advocate, CAT.Hyd.
6. One copy to Mr.K.Ramulu, Addl.CGSC. CAT.Hyd.
7. 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.
VICE-CHAIRMAN

And

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

DATED:-

14/10/97

ORDER/JUDGMENT.

M.A.,/RA.,/C-A.No..

in

O.A.No.

1258/97.

T.A.No.

(W.P.)

Admitted and Interim directions issued.

Allowed

Disposed of with Directions.

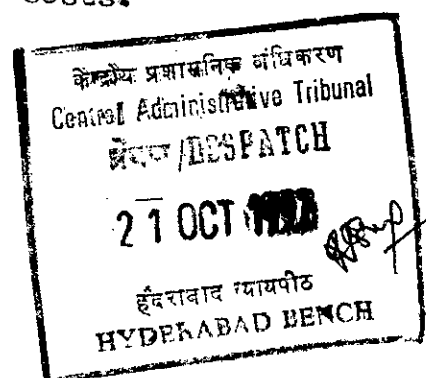
Dismissed.

Dismissed as withdrawn

Dismissed for default

Ordered/Rejected

No.order as to costs.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD

O.A.NO. 1258/97.

Date of Order: 11-12-97.

Between:

H.Subba Rao.

and

.. Applicant.

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 Telecom Dist.Manager,
Dept.of Telecom, Anantapur.

.. Respondents.

For the Applicant: Mr. V.Venkateswar Rao, Advocate.

For the Respondents: Mr.K.Ramulu, Addl.CGSC.

CORAM:

THE HON'BLE MR.H.PAJENDRA PRASAD : MEMBER(AIDN)

The Tribunal made the following Order:-

None for the respondents. No reply has been
filed. This may be done within 2 weeks and post it thereafter.
Admitted in the meanwhile. Interim orders to continue.


Deputy Registrar.

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, Dept.of Telecom,
Anantapur.

5. One copy to Mr. V.Venkateswar Rao, Advocate, CAT.Hyd.

6. One copy to Mr.K.Ramulu, Addl.CGSC. CAT.Hyd.

7. One spare copy.

pvm

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TYPED BY
COMPAKED BY

I Court

CHECKED 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)

(DATED: 11-12-1997)

ORDER/JUDGMENT

M.A./K.A./C.A.No.

in

O.A.No. 1258/97.

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(W.R)

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Allowed

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Dismissed.

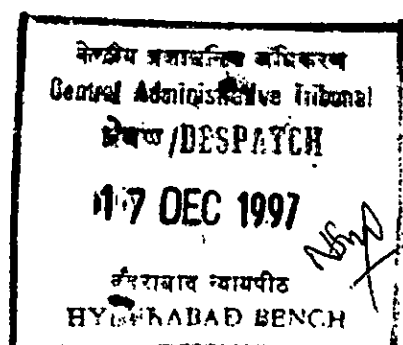
Dismissed as withdrawn

Dismissed for Default.

Ordered/Rejected.

No order as to costs.

pvm.



Ct Hall I

S. 19 gwe AT Act

OA 1258/97

16.9.97

- i) The applicant was engaged as Casual Labourer under the respt Dept. Wef 29.3.95, at paradi Telecom Centre in Anantapur Dt. He has been working as such
- ii) He submits that the works entrusted to him are ⁱⁿ Continuous & perennial nature. He has been paid wages equivalent to minimum pay of officer attached to Gp D post in the respt dept
- iii) He wants his services to be regularised under the Scheme 1989
- iv) He has relied on the decision of the Honble SC in ^{AR} 1987 SC 2342. He submits the respt Dept has extended the cut off date upto 19.6.93
- v) He has challenged the instr d. 31.7.95 wherein G.M (Admin) is directed to replace C.L. by Contract Labourers
- vi) The applicant submitted a repn d. 12.8.96 (890/96)
- vii) He has filed this OA for a direction
(P. 10, p. 7)

Interim order 29.9.97

CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH : AT HYDERABAD.

O.A.No.1258 of 1997.

Date of Order :- 9-9-1998.

Between :

H. Subba Rao, s/o H.Ganapathi Rao
aged about 21 years,
Occ: Casual Labourer,
Pamidi Telecom Centre,
R/o Ananthapur.

... Applicant

And

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 Telecom District Manager,
Department of Telecom,
Ananthapur.

... Respondents

Counsel for applicant : Mr. V. Venkateswara Rao

Counsel for respondents : Mr. V. Rajeswara Rao, CGSC

Coram :

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

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

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Contd....

O R D E R.

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

1. Heard Mr. V. Venkateswara Rao, learned counsel for the applicant and Mr. V. Rajeswara Rao, learned Standing Counsel for the respondents.
2. This is an application under Section 19 of the Administrative Tribunals Act. The application was filed on 16.9.1997.
3. The case of the applicant is as follows :
 - (a) The applicant was engaged as a Casual labourer at Telecom Centra, Pamidi, Ananthapur District with effect from 29.3.1995. He has been working as such presently.
 - (b) He submits that the work entrusted to him is of continuous and perennial nature. He has been paid wages equivalent to the minimum pay and allowances attached to a Group D post in the respondent-department. He submits that his services are to be regularised under the Casual Labour (Grant of Temporary Status and Regularisation) Scheme, 1989. He has relied upon the decision of the Hon'ble Supreme Court in the case of Daily Rated Casual Labour employed under P & T Department v. Union of India and others (AIR 1987 SC 2342). He submits that the respondent-department has extended the cut off date upto 19.6.1993.
 - (c) He has challenged the instructions to replace the casual labourers by contract labourers.
 - (d) The applicant submitted a representation dated 12.8.1996. His representation was rejected by the respondents vide letter dated 10.4.1997. It maybe stated that the respondents considered the representation of the applicant in compliance of the directions given by this Tribunal in O.A.No.890/96.

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(e) Being not satisfied with the reply given by the respondents, the applicant has filed this O.A. praying for a direction to the respondents to grant temporary status and regularise the services of the applicant by extending the Scheme, 1989 to him by declaring the letter bearing No. TA/TFC/OA No. 890/96/20 dated 10.4.1997 issued by the respondent No. 3 as illegal, arbitrary and unconstitutional and to quash the same with all consequential benefits.

4. By an interim order dated 29.9.1997 this Tribunal directed that the services of the applicant should not be terminated or he should not be disengaged until further orders. Thus by virtue of the interim order, the applicant has been working in the respondent-department.

5. The respondents have filed their reply contending that most of the Telecom Centres in the Andhra Pradesh Circle are situated in small places; that usage of public telephone service at these offices for long distance telephone calls is also very less; that most of the offices do not justify posting of a regular Sweeper/Cleaner or a regular telegraph messenger and that in such places, works of sweeping, cleaning, delivery of Telegrams etc. were clubbed together and on the basis of the work load, contract labourers were engaged to do those assorted jobs; that though the department made sincere efforts ^{to do} that the contracts are entrusted with the agencies, but however, they entered into contracts for such works with 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 Casual Labourers (Grant of Temporary Status and Regularisation) Scheme 1989 is applicable to only those

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casual labourers who were working as such as on 1.10.1989; that the applicant had not at all worked as casual labourer before he was engaged as contract labourer and hence the question of converting the status of the applicant from contract labourer to that of a casual labourer does not arise; that they have further relied on the decision of this Tribunal in O.A.No.367/88 and batch reported in 1989(2) SLJ (CAT) page 175, wherein it was held that the question whether an order of termination of a worker is illegal on the ground that there has been a violation of ID Act has to normally be raised by way of an industrial dispute before an Industrial Tribunal; and hence if the applicants are aggrieved by the orders of termination, they ought to and should have raised an industrial dispute. Further they have relied upon the decisions of this Tribunal in O.A.No.230/96 decided on 26.6.96, O.A.No.559/96 decided on 10.12.1997 and O.A.No.382/97 decided on 26.12.97 and thus they submit that the applicant is not entitled to any of the reliefs claimed in the O.A.

6. The applicant in order to prove that he is working as a casual labourer under the respondents has not placed any material on record. On the other hand, the respondents contend that the applicant is working as a contract labourer. They have also not produced any material to show the status of the applicant. The respondents could very well ^{have} produced the documents if they entered into a contract with the applicant. In the absence of necessary material, it may not be possible for this Tribunal to give a definite opinion whether the applicant is a contract labourer or a casual labourer.

7. The Scheme 1989 is not applicable to the

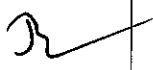
(54)

applicant as he was not engaged as a casual labourer earlier to 22.6.1998. Therefore, the question of applying the provisions of the said scheme to the case of the applicant does not arise at all.

8. On a scrutiny of facts contained in a number of similar OAs which came up for detailed arguments and hearing earlier in the recent past, as also from the replies filed by the Respondents in such cases, the following aspects would seem to be in urgent need of attention:-

(a) The need for engaging of manual labour at the field-level in the Department would seem to be unceasing and continuous. These workers continue to be engaged as a matter almost of routine, despite instructions to the contrary issued repeatedly by the Department. This fact shall, therefore, have to be addressed closely as to how these instructions are enforced at the field level or, in the alternative, in what precise manner this continuing practice, and the manpower so hired, are to be regulated, if the need for such workers is inescapable.

(b) The Casual Labourers (Grant of Temporary Status and Regularisation) Scheme, 1989, was evolved by the Department in pursuance of the directives issued through a judgment of the Hon'ble Supreme Court of India on 27.10.1987 in Writ Petition No.373 of 1986. There was no pointed direction in it regarding any cut-off date. The cut-off date prescribed in the Scheme seems, however, to have resulted in leaving out a sizeable body of persons engaged as casual labourers after the said date from the ambit of the scheme. It is note-worthy in this context that the orders issued by the nodal Ministry in the Government of India viz., the Department of Personnel, Training and



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Public Grievances, vide their Circular No. 51016/2/90- dated 10.9.93 do not envisage any cut-off date while the Respondent department in this O.A. adheres to a cut-off date. It was also pointed out on several occasions by the counsels for applicants similarly situated to the present applicants that the directions of Hon'ble Supreme Court were meant for the erstwhile (combined) P&T Department, and, while one of the successor Departments, Posts, has thought it fit to extend the cut-off date upto the year 1993, the original date prescribed by the Telecom^{Com} Department remains unchanged.

In this connection, it is noted that a similar scheme (for conferment of temporary status on casual labour) was also the product of a directive from Hon'ble Supreme Court. In that instance, the scheme evolved by the Railways, before its promulgation on ground, was duly submitted to the Apex Court which approved of the same with certain minor modifications. There was no hint of insistence on any particular cut-off date in the scheme. Likewise, the Principal Bench of this Tribunal duly endorsed a scheme of similar nature in respect of casual workers of Door Darshan, without any cut-off date being prescribed for its personnel. As already noted, the instructions issued by the nodal Ministry do not themselves prescribe any cut-off date for this purpose. And again, as already stated, the Department of Posts extended the cut-off date upto 1993. Thus it is a moot question if the prescription of such a rigid and inflexible date by the Department of Telecom could really withstand close scrutiny. And, significantly, the Department of Telecommunications have themselves extended the original

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cut-off date at least once. Moreover, the date so prescribed could claim to have had some sanctity and validity if the respondents were able to stop engaging the casual labour completely at any point of time thereafter. This, however, is hardly the case on ground and the engagement of manpower would seem to have become ^Qeligible for certain benefits of far-reaching import and magnitude, while others similarly engaged beyond that point, and perform the same duties and also fulfil the very same criteria laid down for predecessors, can be excluded from similar benefits. The prescription of a particular date as a cut-off point in respect of workers who fulfil a common need and criterion might amount unwittingly to introducing an element of inadvertent but invidious discrimination. This aspect needs very close review.

(c) It does not also seem correct or permissible to abruptly change the nomenclature of the persons so engaged, viz., from Casual to Contract Labour in the manner in which this has been done. In many such instances, it was noticed that the so-called 'contract' entered between the Department and the contracted persons would not seem to meet the basic requirements of a valid Contract as commonly understood in law. This is undoubtedly a serious lacuna in many of the ongoing arrangements which needs to be suitably rectified early. (d)

(d) Orders exist, both in the form of judicial verdicts and Government instructions, that when a person is engaged to perform any kind of work on daily basis, he should be paid the minimum of the basic grade of the lowest group of Government servants on a pro-rata basis, besides

Q a perennial need. Such being the case it cannot be argued that workers engaged only upto a particular point of time would become

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certain other benefits all of which would automatically accrue to such persons after a certain point of time of such engagement. This aspect seems to be getting lost sight of frequently at the field-level and many grievances continue to come up before this Tribunal where the wages being paid to the workers are below the irreducible statutory minimum.

9. Then there is the question of what is generally referred to as 'break-in-service'. A service generally gets broken in the case of regular employees in a certain mode under well-defined rules and procedures. The concept is somewhat alien to daily-wage workers or casual labourers. Be that as it may, according to the extant instructions, no one in the department is said to be empowered or competent to condone a 'break' in service of a casual labourer if it exceeds one year. This is a problematic proposition since one cannot envisage a situation where none, no officer or authority however high or whatever the rank or level, has any power at all to condone a gap in excess of one year even in the most deserving of cases. Quite conceivably, such deserving cases will be few and rare indeed, and many of the routine cases may not merit any condonation at all. But situations could indeed occur where a person is found to have been genuinely ill, or was absent due to other circumstances, ^{equally} genuinely beyond his control. To deal with such a contingency there surely ought to be some authority, armed with requisite power, who could be expected to take a judicious and analytical view of genuine absences. To say that no one has any power to do so would be to negate the very heirarchical arrangement in the Government and also contrary to

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varying powers routinely vested in authorities at different levels. In many cases, for example, it was noticed that the workers are disengaged for want of work but reengaged after a while, at times after a gap of one year, when work becomes available again. The absence of a worker in such situations cannot be held to be due to any reluctance or unwillingness on his part ~~but due entirely to a~~ bona fide inability to perform ~~because of non-availability~~ of work. To penalise a casual labourer or to withhold normal concessions from him cannot be held to be fair in such cases. Secondly, in some other cases, it was noticed that officers who had the power to reengage casual labourers did so after accepting medical certificates of sickness & fitness produced by the casual workers. Now, it has been argued, not without justification, that when a worker's medical fitness becomes the sole basis of his reengagement, the natural implication is that the fact of his earlier sickness too has been accepted. To reengage a person on the strength of medical certificate of fitness but to hold his earlier absence as a 'break' would ^{not} surely be ^{not} correct, specially where no confirmation and second or expert opinion was ever sought to contradict the medical certificate of sickness by a worker. Some way shall, therefore, have to be found out whereby deserving and genuine cases of unforeseen and unavoidable absence, either due to sickness, lack of work or any other deserving circumstances beyond the control of a worker, are duly taken note of, and the power to condone such 'breaks' is exercised at appropriate levels of authority. Unless this is done, the present dispensation of not condoning the break of more than one year would seem to be fraught with impermissible reasonings as also with

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prospects of an interminable, recurring litigation.

10. One other disquieting practice which is often mentioned in connection with such cases is that, in many cases a casual labourer is engaged or reengaged under a fictitious name with a view only to preventing him from earning any credit for the service so rendered. This practice may not be widespread, but if the authorities have any reason to believe that it exists at all, the same needs to be not merely discouraged but stopped entirely. The usual complaint in such cases is that the daily-wage worker, not having any choice in the matter, would rather acquiesce and agree to be engaged for work, even under fictitious names, than protest against such irregular practice, losing, in the process, the credit he ought to have legitimately earned for doing the work. It is worthwhile for the authorities to take a close look at such a possibility and take adequate preventive or remedial steps as may be called for.

11. One complaint which has cropped up constantly in many of the connected cases is to the effect that part-time posts are not converted into full-time post even where justification exists for such a step, as per the departmental instructions. Where feasible, part-time workers are required to be converted into full-time workers by combining two or more posts, or by creating common posts in a cluster of nearby offices. On their conversion from part-time to full-time, the services rendered by workers are also to be converted upto 50% of the total part-time services rendered by such workers, in order to determine their eligibility for conferring temporary status, etc. The grievance in such cases generally is that no efforts are made to attempt such conversions, either in terms of posts to be created or in terms of reckoning of 50% service rendered as part-time workers for the purpose of determining their further benefits. Such cases, though not very common, are not unknown either, judging from the number of cases filed before this Tribunal. This aspect of the matter also needs attention.

12. Unless the above points are resolved speedily, recurring and avoidable litigation seems to be inescapable - a fact which cannot be in the interest either of the worker or of the Department.

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13. In the light of what has been discussed above, to our mind, the alternative choices available to the Respondents would seem to be :

- A) to stop the practice of engaging casual labour on field-work altogether, if operationally feasible; and to strictly enforce their repeated instructions to the field level ^{officers} not to engage such labour; or in the alternative;
- B) take a fair and judicious decision about the manner in which the benefits of the existing scheme can be extended to such continually engaged labourers, by
 - (i) extending the cut-off date suitably, or
 - (ii) extending it atleast on par with a sister-department in the same Ministry, or
 - (iii) making it an ongoing, open-ended scheme on the lines obtaining in some other Government - for example the Railway - Departments, or
 - (iv) to evolve a suitable mechanism to protect the interests of such workers who were engaged after a particular cut-off date, and continue to serve beyond the minimum period thereafter to become eligible for Temporary Status/Regularisation, as envisaged in the Govt. circular issued by the Ministry of Personnel.
- C) to determine whether Contract Labour can at all be employed in jobs which have all the appearance and characteristics of perennial works; and thereafter
- D) to evolve standard and valid procedures, conditions and criteria in terms of the provisions of the relevant Act for engaging contract labour if the same is found to be permissible and inescapable.
- E) to ensure compliance of payment of minimum prorata wages commensurate with the emoluments of the regular employees besides other admissible or

mandatory moneys to such of the casual workers who continue to be so engaged;

- F) to determine, the conditions and circumstances ~~(for~~ condoning genuine absence in deserving cases, even if it is in excess of the present limit of one year, and the level(s) of authority at which such condonation could be accorded; and
- G) to ensure implementation of extant verdicts and instructions regarding conversion of part-time workers into full-time workers, where the circumstances justify such conversion, and to afford the service-credits earned for such part-time work on conversion to full-time status, for the purpose of reckoning the same to count towards the eligibility of such workers for conferment of temporary status, etc.

13. The applicant submits that the respondents have extended the cut-off date to 19-6-1993. He has not placed any material in support of this averment. Even the respondents have also not traversed the said averment. Even accepting for the moment that the respondents have extended the cut-off date to 19-6-1993, the applicant cannot have the said benefit too as he was engaged in the respondent department for the first time on 29.3.1995.

14. The respondents have to take a decision as to the continuation of the applicant in their department. As already submitted, the work entrusted to the applicant is of perennial and continuous in nature.

15. The respondents may sympathetically consider the case of the applicant and provide him work to continue in his service as per the rules. ^(c) Till work is available with the respondent~~k~~_e department, the respondents may continue the services of the applicant by virtue of the interim order. ^(c) In case of any eventuality (arises that) the respondents are to disengage the applicant or ^t terminate the contract service of the applicant, then the respondents may consider the case of the applicant, ~~then the respondents may consider the case of the applicant~~ to engage him in the works that may arise in future instead of outsiders.

To

1. The Chairman, Telecommunications,
Telecom Commission, 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,
Dept.of Telecom, Anantapur.
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6. One copy to Mr.V.Rajeswar Rao, Addl.CGSC. CAT. Hyd.
7. One copy to DR(A) CAT.Hyd.
8. One spare copy.

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HYDERABAD BENCH AT HYDERABAD

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

AND

THE HON'BLE MR. H. RAJENDRA PRASAD: M(1)

The Hon'ble Mr B. S. Jaiparamwar: M(1)

DATED: 8-9-1998.

ORDER/JUDGMENT

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

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A.No.

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Admitted and Interim directions
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Allowed.

Disposed of with directions

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Dismissed as withdrawn.

Dismissed for Default.

Ordered/Rejected.

No order as to costs.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
प्रेषण / DESPATCH

18 SEP 1998

हैदराबाद न्यायपीठ
HYDERABAD BENCH