

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD
O.A.NO. 1353/97.

Date of Order: 30-4-98

Between:

M.Murthuza.

Applicant.

and

1. The Junior Telecom Officer,
Telegraph Office,
Nanayal-501.
2. The Telecom District Manager,
Kurnool.
3. The Chief General Manager, Telecom
A.P.Circle,
Hyderabad.
4. The Chairman, Telecom Commission,
New Delhi.

Respondents:

For the Applicant: Mr. T.V.V.S.Murthy, Advocate.

For the Respondents: Mr. V.Rajeswar Rao, Addl.CGSC.

CORAM:

THE HON'BLE MR.A.V.HARI DASAN : VICE-CHAIRMAN
(ERNAKULAM BENCH)

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

The Tribunal made the following Order:-

..contd.. 2

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Though the case has been admitted vide the order dated 9-5-97, the respondents have not so far filed any reply statement. Though the matter was heard alongwith a batch of 18 cases, we find that for proper disposal of the case, a reply statement of the respondents is essential. Under Rule 12 of the CAF(Procedure) Rules, the respondents have to file reply statement and produce documents within one month from the date on which the notice was received by them. They may also file the reply statement within the date extended by the Tribunal. We find that the respondents did not file a reply statement nor did they produce the document which would enable the Tribunal to dispose of the case even without a reply statement. Pleadings in this case has also not been taken as complete. Therefore it is not possible to dispose of this case on the basis of the general arguments advanced by the counsel. Hence the respondents are given four weeks further time to file a reply statement and to produce documents on which they rely on for contesting the claim of the applicant. If reply statement is filed, the applicant may file rejoinder, if any, within 2 weeks thereafter. If no reply statement is filed within the said period, it would be deemed that the respondents do not wish to controvert the factual allegations contained in the application and the pleadings in the case would be treated as complete. List for completion of pleadings on 22.6.1998.

Amrit
T3518
Deputy Registrar.

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TYPED BY

CHECKED BY

COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE AV Haidar

VICE-CHAIRMAN

AND

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

DATED: 30-4-1998.

ORDER/JUDGMENT

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

in

O.A.No. 1353/97

T.A.No. (w.p.)

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions

Dismissed.

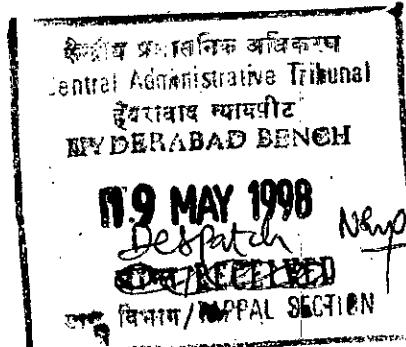
Dismissed as withdrawn.

Dismissed for Default.

Ordered/Rejected.

No order as to costs.

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CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH : AT HYDERABAD

O.A.NO.1353 of 1997.

Date of Order:- 12-8-1998

Between :

M. MURTHUZA, S/o M.Ibrahim,
aged about 39 years, working as
Casual Mazdoor under the control of
the Telecom District Manager, Kurnool.

... Applicant

And

1. The Junior Telecom Officer,
Telegraph Office, Nandyal-518 501.
2. The Telecom District Manager,
Kurnool.
3. The Chief General Manager,
Telecom A.P. Circle, Hyderabad.
4. The Chairman,
Telecom Commission,
New Delhi.

... Respondents

Counsel for Applicant .. Mr. T.V.V.S.Murthy

Counsel for Respondents .. Mr. V.Rajeshwara Rao, CGSC

CORAM :

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

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

O R D E R.

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

1. Heard Mr. T.V.V.S.Murthy, 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 15.10.1997.
3. The applicant claims to have worked as Casual Mazdoor under the respondents from 1983 to December, 1988 with intermittent breaks in the Telephone Exchange, Kurnool. He submits that he was not allowed to do any work between 1988 and 1993. Further he states that he was otherwise ill during the said period.

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He was re-engaged from 1.6.1994. He submits that he was paid wages on muster-rolls and ACG 17. He submits that he was working 8 hours or even more per day.

4. He submits that the respondents are treating him ^{have} as a contract labour and they ^{do} so with an oblique motive to deprive him the wages at 1/30th of minimum pay and D.A. attached to the Group D post in the respondent department. He claims to have received Rs.1000/- per month. He submits that there cannot be a contract between a department and an individual worker. He submits that he has been unjustly treated as a contract labourer.

5. The grievance of the applicant is that the respondents are trying to dispense with the services of the applicant on the ground that there is no work. Thus the respondent No.1 issued a notice under letter No.E-5/97-98 dated 20.9.1997 dispensing with the services of the applicant from 20.9.1997.

6. The applicant has filed this O.A. praying to call for the records relating to the impugned order dated 20.9.1997 issued by the JTO, Telephone Office, Nandyal, to quash the same and declare that the applicant is entitled to continue as Casual Mazdoor with wages @ 1/30th of the minimum of the pay and D.A. of a Group D post in the respondent department.

7. The respondents submitted that the counter filed in O.A.No.1258/97 (H.Subba Rao v. The Chairman, the Telecom Commission, New Delhi and 3 others) may be taken as reply in this O.A. In the reply, the respondents have stated that certain Telecom Offices in the rural areas of the State of Andhra Pradesh are very small and that even the demand for long distance telephone calls is also less; that the offices do not justify for posting of a regular Sweeper, Cleaner or a regular telephone messenger and in such offices, the respondents clubbed the works and depending upon the workload, they engaged

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the contract labourers; that they tried to entrust these works to an agency; but however, the contract was entered into with the applicant; that there are nearly 400 such contract labourers engaged in various Telegraph offices and Telecom Centres in A.P. Telecom Circle; that the Casual Labour (Grant of Temporary Status and Regularisation) Scheme, 1989 is applicable to only those casual labourers who were working as casual labourers as on 22.6.1988; that the applicant had not worked during the said period; that the applicant is not entitled to the benefits of the scheme, 1989; that the contract entered into by the applicant is against the rules; that they rely on the decisions of this Bench of the Tribunal in O.A. No.559/96 decided on 10.12.97, O.A.No.230/96 decided on 26.6.1997, O.A.No.382/97 decided on 26.12.1997 and also O.A.No.1080/95. Thus they pray for dismissal of the O.A.

8. The applicant submits that he was engaged between 1983 and December, 1988. His subsequent engagement with the department either as a contract labourer or a casual labourer is not at all material for grant of the reliefs. If the applicant is able to establish his engagement as a casual labourer in the respondent department between 1983 and December, 1988 and more particularly on 22.6.1988 and if he had been continuously working for a period of 240 days in any year during the period from 1983 to December, 1988, then the applicant is entitled to the benefits provided under the Scheme, 1989.

9. However, by the interim order dated 16.10.1997 the respondents were directed to keep him engaged if there is any work available to be done by him.

By virtue of the interim order, the applicant has been in service under the respondent-department.

10. The applicant has not produced any material in support of his contention. He submits that he was paid wages on muster rolls and also ACG 17. Even to substantiate this he has not produced any material. Even the respondents who had taken a stand that the applicant is a contract labourer have not produced any document

or at least the proforma of the contract entered into by the department with the applicant could have been produced. Even that has also not been produced. Therefore, without any acceptable material, this Bench cannot give a definite conclusion whether the applicant is a casual labourer or a contract labourer. If, in any case, he fails to establish his continuous engagement prior to 22.6.1988, then the applicant may move the appropriate authority for treating him as an employee with the principal employer. Here no intermediary person has taken contract to offer the services of the applicant to the department. The applicant himself has entered into a contract with the department.

11. (a) As already observed, in case the applicant is able to establish his engagement between 1983 and December, 1988, then the applicant may get some relief of regularisation or the benefits under the scheme, 1989. Therefore, we feel it proper to direct the applicant to submit, if so advised, a detailed representation establishing his engagement between 1983 and December, 1988 to the respondent No.3. He shall submit the said representation within one month from the date of receipt of a copy of this order. He shall produce necessary documentary proof to substantiate his contention.

(b) If such a representation is received from the applicant with necessary proof of his engagement between 1983 and December, 1988, then the respondent No.3 shall in the presence of the applicant check and verify the records maintained in his office and ascertain whether the applicant was engaged between the said period and consider the eligibility of the applicant for the benefits under the scheme, 1989.

(c) If the respondent No.3 after such verification comes to the conclusion that the applicant is not eligible for the benefits under the scheme, 1989, then he shall inform the applicant through a speaking order.

(d) Till such time and till the work is available in the respondent department, the applicant shall be continued as per

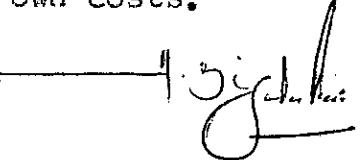
the interim order dated 16.10.1997.

12. With the above directions, the O.A. is disposed of, leaving the parties to bear their own costs.


(B.S. Jai Parameshwar)

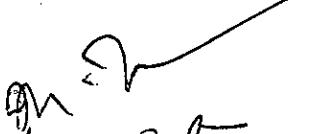
Member(Judl.)

12.8.98


(H. Rajendra Prasad)

Member(Admn.)

Dated the 12th August, 1998.


Deputy Registrar

DJ/

O.A. 1353/97.

To

1. The Junior Telecom Officer,
Telegraph Office, Nandyal-501.
2. The Telecom District Manager,
Kurnool.
3. The Chief General Manager, Telecom
A.P.Circle, Hyderabad.
4. The Chairman, Telecom Commission,
New Delhi.
5. One copy to Mr.T.V.V.S.Murthy, Advocate, CAT.Hyd.
6. One copy to Mr.V.Rajeswar Rao, Addl.CGSC. CAT.Hyd.
7. One copy to HBSJP.M.(J) CAT.Hyd.
8. One copy to DR(A) CAT.Hyd.
9. One spare copy.

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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)

~~The Hon'ble Mr. B-S Saipanawar : M(C)~~

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