

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No.615/99

Date of Order : 30.11.99

BETWEEN :

1. L.Ramana Reddy

2. S.Baba Fakruddin

.. Applicants.

AND

1. The Assistant Director General
(STN), Dept. of Telecommunications,
(STN Section), New Delhi.2. The Chief General Manager,
Telecommunications, A.P.Circle,
Abids, Hyderabad.3. The Telecom District Manager,
Dept. of Telecommunications,
Cuddapah.4. The Sub Divisional Engineer,
Telephones (Grps),
Pulivendula.

.. Respondents.

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Counsel for the Applicants

.. Mr.V.Venkateswara Rao

Counsel for the Respondents

.. Mr.B.N.Sharma

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CORAM :

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

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O R D E R

{ As per Hon'ble Shri B.S.Jai Parameshwar, Member(Judl.) }

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Mr.V.Venkateswara Rao, learned counsel for the
applicants and Mr.M.C.Jacob for Mr.B.N.Sharma, learned
standing counsel for the respondents.

2. There are two applicants in this OA. They have been engaged as casual labourers in the respondents department w.e.f. 1.4.93 and 21.10.94. They have been working at Telecom Centre, Pulivendula on daily wages.

3. Earlier the applicant along with others had filed OA.471/98 for grant of temporary status and regularisation. The said OA was decided on 10.8.98 directing the respondents until a final view is taken to modify the existing scheme or extending its benefits on par with postal or any other department of the Government the applicants shall continue to be engaged on the same basis as before in their present service, as long as the kind of work that they had been continuously doing is available. Further they ^{Tribunal,} observed that the fact that the work has been available to be performed for the past several years by these applicants (there being no assertion on the part of the respondents that work has either ceased or likely to come to an end) leads to an inescapable inference that it shall be available in foreseeable future as well.

4. However, the respondents by the impugned letter No. SDOT/PLEVEL/98-99/2 dated 25.3.89 issued notice to terminate the services of the applicant on the expiry of 30 days from the date of said impugned notice.

5. The applicants have filed this OA challenging the impugned notice of retrenchment dated 25.3.99 issued by R-4 declaring it as illegal and arbitrary and for a consequential direction to the respondents to grant temporary status and regularisation to the applicants with all consequential benefits such as seniority, arrears of pay and allowance etc.

6. On 22.4.99 an interim order was issued directing the respondents to maintain status-quo. By the said order it is submitted that the applicants have been continuous^{-ing} to work in the respondent department.

7. The respondents have filed their reply. They submit that the applicants were engaged as part-time labourers on contract basis vide order dated 14.8.84. The department had banned the engagement of part-time labourers on 14.8.84. Subsequently the department ~~has~~ issued instructions not to engage part-time labourers. However, some of the units engaged part-time labourers which^{was} against the instructions of the TCHQ, New Delhi. The department introduced a scheme for casual labourers (grant of temporary status and regularisation) scheme, 1989. The scheme came into force from 7.11.89. As per the said scheme of the casual labourers recruited prior to 30.3.85 and had completed 240 days in a year were eligible for grant of temporary status. The cut off date 30.3.85 was subsequently extended to 22.6.88 by the TCHQ, New Delhi vide its letter

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dated 17.12.93. They submit that the grant of temporary status under the above scheme is applicable only to casual labourers and not to part-time labourer like the applicants engaged on contract basis. They submit that the applicants are neither a full time labourer nor engaged on casual basis. As regards the circular instructions issued by its letter dated 12.2.99 (A-2) they submit that the said letter has not extended the cut off date and that the instructions contained in the said letter are applicable only in the case of full time casual labourers. Thus they state that the applicants have not made out a case for regularisation. In the reply the respondents have not stated anything about the impugned order of termination dated 25.3.99.

8. During the course of hearing the learned counsel for the applicants relied upon the order dated 24.8.99 in OA.439/99 (P.Ramana Rao and 17 others v. The Telecom Commission) to contend that earlier instructions were available for converting part-time labourers into full time mazdoors, and that the department should have made efforts to convert the applicants into full time mazdoors. In that OA Annexure-R-2 letter dated 15.2.85 was relied. Thus he submits that the respondents could have made efforts to convert the part-time labourers either on contract basis or on casual basis into full time mazdoors.

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9. As regards the contention of the respondents that the applicants are part-time labourers on contract basis. He relies on the order dated 16.9.99 in OA.714/99 (H.V.Ranga Rao and others v. Chairman Telecom Commission, New Delhi and others).

10. Further he relied upon the circular instructions dated 12.2.99 (A-2) to contend that the instructions therein are applicable to the applicants as well. He relied upon para-4 of the said order and Annexure-B to the said letter.

11. As already observed the applicants have challenged the impugned retrenchment notice dated 25.3.99. A copy of the notice issued to applicant No.2 is at Annexure-4. On perusal of this notice it is revealed that the applicant was engaged from 21.10.94 to 24.3.99. It is stated that he was working on contract basis. Certain portions in the impugned notice of termination are left blank. The respondent authorities before taking a decision to terminate the services of the applicants ^{should} ~~who~~ have been more careful enough because earlier a direction was given to them in OA.417/98. Further they should have considered whether the nature of work performed by the applicant ^{we} had come to an end even though ~~he~~ had made observations in the earlier OA that it is still continuing.

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and likely to continue.

12. The learned counsel for the respondents during the course of arguments relied upon the decision of the Hon'ble Supreme Court in the case of Union of India v. Sakkubai and others reported in 1997 (11) SCC 224 to contend that part-time casual labourers are not eligible for regularisation and for grant of temporary status. Further he relied upon the observations of this Tribunal in OA.471/98.

13. The letter dated 12.2.99 is clear that the Telecom Commission has approved for delegation of powers to grant temporary status to casual labourers to the extent of number indicated against the respective circles in Annexure-B. As per Annexure-B casual labourers to be given temporary status must be working as on 1.8.98 and the figures from the State of A.P. were not available. That means the department should have furnished the details of casual labourers who are on duty as on 1.8.98 and sought approval from the Commission for grant of temporary status. Without making ^{these} efforts to convert the applicants into full time mazdoors without ^{or} making ^{an} efforts to ascertain who are all the casual labourers who are eligible for regularisation (as on 1.8.98) the respondents hurried in issuing the impugned order of termination dated 25.3.99.

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14. As the order of termination is not clear in all respects I feel it proper to set aside the same.

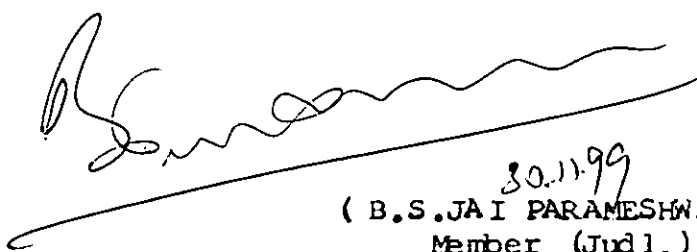
15. The respondent authorities may take action in accordance with the instructions contained in letter dated 12.2.99 and seek necessary approval from the Telecom Commission for regularisation of casual labourers.

16. Till such time the respondents shall not attempt to disengage the applicants. The interim order dated 22.4.99 shall be inforce till the respondents to complete their exercise.

17. With the above observations the OA is disposed of.

No costs.

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30.11.99
(B.S.JAI PARAMESHWAR)
Member (Judl.)

Dated : 30th November, 1999
(Dictated in Open Court)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH.
HYDERABAD.

✓
20/12/99
IST AND IIND COURT

COPY TO.

1. HDHNS
2. HARN M (ADMN)
3. HGSJP.M. (JUDL)
4. D.R. (ADMN)
5. SPARE
6. ADVOCATE
7. STANDING COUNSEL

TYPED BY
COMPARSED BY

CHECKED BY
APPROVED BY

THE HON'BLE MR. JUSTICE DH. NASIR
VICE-CH. JUDGE

THE HON'BLE MR. R. RANGARAJAN
MEMBER (ADMN)

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

DATE OF ORDER 30/11/99

MA/RA/CP.NO.

IN
CA. NO. 615/99

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

CP CLOSED

RA. CLOSED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

