

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH

O.A. 671/99

Date: 3. 2. 2000

Between:

G. Mallesham

.. Applicant

A N D

1. Union of India
through
Chief General Manager,
Telecommunications,
A.P. Circle,
Door Sanchar Bhavan,
Hyderabad - 500 001.
2. Principal General Manager,
Telecommunications,
Suryalok Complex,
Gunfoundry,
Hyderabad.
3. Sub. Divisional Engineer(S.D.E)
Phones,
Telecommunications, BHEL, MIG
Hyderabad - 500 032. .. Respondents

Counsel for the applicant: Mr. BSA Satyanarayana

Counsel for the Respondents: Mr. V. Rajeshwara Rao

Coram:

Hon. Shri B.S. Jai Parameshwar, Member (J)

J

(Per Hon. Shri R.S.Jai Parameshwar, Member(J))

Heard Mr. B.S.A. Satyanarayana, learned counsel for the applicant and Mr. V. Rajeswara Rao, learned standing counsel for the respondents.

2. The applicant herein was engaged as casual labourer in the office of Respondent No.3 w.e.f. 1-9-1994. His services were dis-engaged w.e.f. 1-11-1998. He submits that he was entrusted with cable laying, digging trenches; working on and off the poles, which works were of regular and perennial nature and that his dis-engagement on the basis of no work is not correct. He also submits that many of his juniors and freshers are being engaged and even conferred with temporary status. His grievance is that the respondents have not followed the principle of last come first go. Hence he has filed this OA to call for the records connected with the service of and expenditure of the casual labourers along with live Register of casual labourers and after perusal declare the action of respondent no.3 herein of disengaging of the service of the applicant as illegal, capricious and for a consequential direction to the respondents to engage the applicant in service with all consequential benefits.

3. On 28-6-99 an interim order was passed directing the respondents to engage the applicant as a casual labourer in preference to freshers from the open market.

4. The applicant in support of his contentions has produced certain material papers which clearly

02

indicates his engagement as casual labourer. His ^{proposed to be} main grievance is that no action was taken against those officers who engaged casual labourers after 1994 and that in order to cover up their own folly they have destroyed the records of engagement of the applicant as casual labourer. For this he relied upon the instructions dt. 2-4-98.

5. The respondents have filed reply. In reply they submit that the applicant was engaged intermittently and without sanction on ACB-17. Such instances are sporadic in nature and do not constitute any privity. Such occasional engagement after 1-9-1994 cannot be regarded as any casual service or casual engagement. Further they submit that the applicant was aware that he has no right to continue in the said manner. Thus they submit that the applicant is not entitled to claim engagement as casual labourer and consequential benefits.

6. During the course of argument, the learned counsel for the applicant criticised the manner in which the reply has been filed by the respondents. It is his case that an official who is in no way concerned with the engagement of casual service has sworn ^{to} ~~on~~ affidavit on behalf of the respondents; that the respondents in order to cover up their own omission or commission have allowed an official who is ignorant of the facts to swear ^{to} ~~on~~ affidavit; that the immediate superior official who had engaged the applicant should have filed the affidavit explaining the correct circumstances that the reply in a way indirectly admits engagement of the applicant as casual labourer from 1-9-94 till 1-11-98 that he had worked during the interval continuously for a period of 240 days; that this fact clearly makes



him eligible for grant of temporary status; that he has produced the necessary documents to substantiate his statement; that respondents be directed to re-engage him with consequential benefits. Further he submitted that this Tribunal may not follow the decision in OA 1617/98 decided on 3-8-1999 for the simple reason that the respondents of late ^{are} attempting to interfere ~~not~~ the said order as a prospective order and attempting to violate directions while entrusting such work to contract labourers. He submitted that in fact a contempt application was filed and that the contempt application was not ~~not~~ entertained by this Tribunal. Therefore he submits that a fresh positive direction to the respondents be given to re-engage the applicant and provide all consequential benefits. He further submits that respondents have not disputed the material papers produced by him to support his claim of engagement between 1-9-94 and 1-11-98.

7. Therefore he ~~submits~~ strongly ^e persuaded me to call upon the respondents to produce the relevant records which will bear the truth.

8. On the other hand the learned counsel for the respondents submitted that at present records are not available; that some of the persons indicated in Annexure A-2 to the OA had earlier approached this Tribunal in OA 1617/98; that the said OA was decided on 3-8-99; that at that time this Tribunal took into ~~various~~ consideration the various contentions raised by the respondents ^{hence} and the present application be decided on the same lines. In that case we considered the contentions of the applicants therein and also the respondents and rejected the contentions of the respondents.

R

The reasons stated by us in the said OA are aptly applicable to the facts and circumstances of this case.

8. The apprehension of the learned counsel for the applicant is that the respondents ^{may} not implement the directions given in the OA and that they may circumvent the directions by entrusting the work ~~to contractors~~ which was being performed by the applicant to a contractor and they may claim that there is no work ^{but} and the directions can only be implemented prospectively.

9. I have considered all these aspects. We are bound by certain judicial discipline. I cannot deviate from the reasoning given in OA 1617/98. It is a division bench decision. The said decision is binding on me. Now accepting the contentions of the learned counsel for the applicant I cannot attempt to give a direction which runs contrary to the decision in OA 1617/98. I hope and trust that the respondents shall implement the directions given in this OA with all true spirit.

10. Hence the following directions are given:

- (a) The respondent department shall engage the services of the applicant if there is work and need ~~need~~ for engaging the casual labourers in place of freshers from the open market;
- (b) Interim order dt. 28-6-99 is hereby made absolute.

11. With the above direction the OA is disposed of leaving the parties to bear their own cost.

B.S. JAI PARAMESHWAR

Member (J)

3/2/2000

pr2
ws

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH : HYDERABAD.

~~1ST AND 2ND COURT~~

COPY TO:

1. HONMO
2. HRRN M (ADMN.)
3. HBSJP M (JUDL.)
4. D.R. A (ADMN.)
5. SPARE ✓
6. ADVOCATE
7. STANDING COUNSEL

TYPED BY
COMPIRED BY

CHECKED BY
APPROVED BY

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

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

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

* * *

DATE OF ORDER: 31/02/2003

MA/RAT/CP.NO.

IN

OA. NO. 671/99

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

CP CLOSED

(8 copies)

RA CLOSED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDER/REJECTED

NO ORDER AS TO COSTS

केन्द्रीय प्रशासनिक आयोग
Central Administrative Tribunal
डिपार्टमेंट ऑफ डेस्पैच
DESPATCH

11 FEB 2003

HYDERABAD (BENCH)