

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

OA.No.439/99

Date of Order: 24-8-99

Between:

- | | |
|-----------------------|-----------------------|
| 1. V.Ramana Rao | 10. P.Lakshmana Rao |
| 2. G.Naveen Kumar | 11. S.Prasad |
| 3. Ch.Suresh Kumar | 12. K.Srinivasa Rao |
| 4. M.Panduranga Rao | 13. A.Siva Prasad |
| 5. P.Koteshwara Rao | 14. A.Murali Krishna |
| 6. D.Venkateswara Rao | 15. S.Rama Mohana Rao |
| 7. Ch.Srinivasa Rao | 16. E.V.Phani Kumar |
| 8. B.B.Amarnath Singh | 17. M.Bujji |
| 9. M.Solman Raju | 18. G.V.Ramana |

....Applicants

a n d

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 General Manager,
Telecom District, Central
Telegraph Office,
Vijayawada.
5. The Senior Superintendent,
Telegraph Traffic, D/o
General Manager, Telecom District,
Central Telegraph Office,
Vijayawada.

...Respondents

Counsel for the Applicants - Mr.V.Venkateshwar Rao, Advocate

Counsel for the Respondents - Mr.V.Rajeshwar Rao, Addl.CGSC

CORAM:

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

...



...contd..2

O r d e r

Heard Sri V.Venkateshwar Rao learned counsel for the applicant and Sri V.Rajeshwar Rao, learned standing counsel for the Respondents."

2. There are 18 applicants in this OA. They have been engaged as Casual Labourers on daily wages in the Telegraph Traffic Wing of Vijayawada Division in the office of Respondent No.5. They were engaged as such between 9.11.89 and 1.1.96. It is submitted that they are being continued even to this day. They submit that the work entrusted to them are regular and perennial in nature and that they are eligible to be absorbed in the department on regular basis."

3. Earlier the applicants had approached this Tribunal in OAs.234 to 252/97 seeking directions to the respondents to confer all of them temporary status and for regularisation of their services. They submit that they also had challenged the letter dt.31.7.95 wherein the office of the Respondent no.3 had taken a policy decision to dispense with the services of the Casual labourers engaged after 22.6.1988. The said OAs were disposed of by this Hon'ble Tribunal with the following directions:-

" Both the sides agreed that this OA is a covered case and the direction as given in OA.777/96 disposed on 18.6.1996 will hold good in this case also. In view of the above submissions I follow the direction already given and direct as follows:-

(i) It is left open to the applicant to file a representation to the respondents for the relief as prayed for in this OA subject to the condition that he is factually working as on today and secondly the representation is filed within a period of 6 weeks from today."

(ii) On the representation being received from the applicant within the stipulated period the respondents after taking the factual position shall examine the



..contd..3

No.3.

matter and take a decision as to whether the benefit of the scheme can be extended to the applicant and if not, record brief reasons in support of that decision. A copy of the final decision taken shall be supplied to the applicant. The representation to be decided as early as possible preferably within a period of 3 months from the date of receipt of the representation.

The respondents are directed that the applicant shall not be disengaged until a period of 2 weeks expires after the decision on the representation in the event of rejection of his representation is communicated to the applicant. The direction shall stand automatically vacated after that period. Till such time the representation if submitted in time is disposed of the applicant shall be continued as a casual labour."

4. In compliance with the directions, the applicants herein submitted individual representations to the Respondent No.3 on 16.4.1997. In reply to the representations, the Respondent No.3 directed them to furnish a copy of order of initial engagement alongwith the letter from Employment Exchange sponsoring their name. The applicants herein submitted their replies to the said letter."

5. The respondents failed to take action in accordance with the directions in the above said OA. The applicants then had filed MA.Nos.384 to 401 of 1998 seeking implementation of the directions given by this Tribunal. The said MAs were disposed of on 16.10.98 directing the respondents to comply with the directions given in the said OA within three weeks from the date of receipt of the copy of the order in MAs.

6. Thereafter the respondent no.3 rejected the representations submitted by the applicants on 16-4-97."

7. The applicants submit that they were working as part-time sweepers, Waterman-cum-Gardeners etc against the

..contd..4



.4.

sanctioned posts and despite the sanctioned posts being available they were continued on daily wages without regularising their services.

8. Hence they have filed this OA for the following reliefs:-

" to direct the respondents herein to regularise the services of the applicants herein by extending the scheme of Casual Labourers (Grant of Temporary Status and Regularisation) Scheme 1989 or by converting the posts held by them into permanent with all consequential benefits such as seniority, promotion, arrears of pay and allowances."

9. The respondents have filed the reply. They submit that the applicants were engaged while the ban for engagement of Casual Labourers were in force, that the applicants are part-time Casual Labourers and that therefore the applicants are not eligible for the benefit provided under the "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme, 1989". Further they submit that the engagement of the applicants as such was against the rules and instructions of the department.

10. They further submit that engagement of the applicants against the instructions will be a matter of indiscipline on the part of the officers but such illegal action would not confer any benefit on the applicants.

11. After considering the submissions made in the OA and reply it is clear that the applicants were engaged when the ban was in force. However Annexure R-2 produced by the respondents Lr.No.269/39/84-STN, dt.15-2-85 wherein it is stated as follows:-

" I am directed to say that a large number of requests have been received from different quarters regarding employment for such services as Sweeper, Scavenger, Waterman etc. in offices,

..contd..5

.5.

which may require from one to two hours etc. consequent upon abolition of the practice of employment of part-time mazdoors in future vide this office letter of even no. dated 14.8.84, it is clarified that the duties of scavengers, sweepers, waterman etc. in small offices can be clubbed prudently in requirement of full time mazdoors and only full time mazdoors recruited accordingly.

Such review to convert the existing part-time officials may be conducted for clubbing them together and full time mazdoors employed in their place, wherever possible."

12. It is to be noted that the letter dt.15-2-85 clearly stated that consequent upon abolition of the practice of employment of part-time mazdoors in future, the duties of scavengers, sweepers, waterman etc. in small offices can be clubbed prudently in requirement of full time mazdoors and only full time mazdoors recruited accordingly.

13. When that was so the respondent authorities could have considered the work load and the duties of the Sweepers, Scavengers, Waterman etc could have converted the part-time Casual Labourers to full time mazdoors. It is clear even after issuing the letter dt.15.2.85 such menial work still exist in the office. The very fact that the applicants who were engaged as part-time Casual Labourers between 1990 and 1996 are still performing the said duties in the offices. Therefore, it may not be proper to state that the applicants are not entitled to any of the reliefs claimed in the OA."

14. Hence I feel it proper to direct the Respondent No.5 to carry out exercise of conversions of part-time Casual Labourers in to full time Mazdoors in accordance with the directions given in the letter dt.15-2-85 (extracted above).

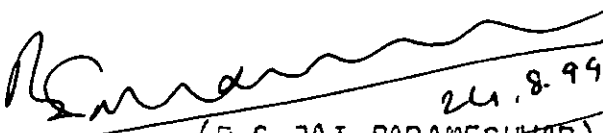
..contd..6



.6.


- (a) The Respondent no.5 must ascertain the existing number of part-time casual labourers and full time Mazdoors to be employed.
- (b) The respondent no.5 may thereafter consider the ease of the applicants for regularisation as indicated in letter dt.12.2.99 Annexure A-VIII P-26 to OA.
- (c) In case the respondent no.5 could not accommodate all or any of the applicants herein in proper and suitable posts of full time Mazdoors in the Vijayawada Division, then Respondent-5 may obtain willingness of the applicants to work in the other divisions, where work for full time mazdoors is available.
- (d) In case any of the applicant^s feel aggrieved by the decision taken by the respondent no.5 on the basis the letter dt.15.2.85 and 12.2.99 they are at liberty to approach the proper judicial forum.
- (e) Till such time applicants shall not be disengaged from the part-time casual services in the department.
- (f) Time for compliance is 4 months from the date of receipt of copy of this OA.

15. With the above directions, the OA is disposed of.
No orders as to costs.


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

Dated: 24th August, 1999
(order dictated in the open court)

'SA'


3-22P.