

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

O.A.No.402/95

Date of order: 9/8/2001

1. Harish Kumar, S/o Sh.Jot Singh, working in the O/o Sub Divisional Engineer P&A Sanganeri Gate Telephone Exchange, Jaipur.
2. Vinod Mathur; S/o Sh.Jeevan Lal Mathur, working in the O/o Sub Divisional Engineer SPC Telex, GMTC, Jaipur.

...Applicants.

Vs.

1. Union of India through Secretary to the Govt of India, Mini.of Communications, Deptt.of Telecom. Sanchar Bhawan, New Delhi.
2. Director General, Deptt.of Telecom, Sanchar Bhawan, New Delhi.
3. Chief General Manager, Deptt of Telecom, Rajasthan Circle, Jaipur.
4. General Manager, Telecom, Telecom District, Jaipur.

...Respondents.

Mr.R.N.Mathur : Counsel for applicant

Mr.D.K.Swamy, proxy of Mr.Bhanwar Bagri, for respondents.

CORAM:

Hon'ble Mr.S.K.Agarwal, Judicial Member.

Hon'ble Mr.A.P.Nagrath, Administrative Member.

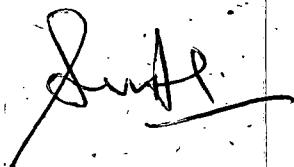
PER HON'BLE MR S.K.AGARWAL, JUDICIAL MEMBER.

In this O.A filed under Sec.19 of the ATs Act, 1985, the applicant makes a prayer (i) to regularise the applicants on the post of Airconditioning Operator/ Technicians in Group-C post and to allow regular pay scale Rs.975-1600 and other allowances admissible to the Airconditioning Operator/Technicians w.e.f. 2.7.86; (ii) to

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struck down the impugned orders at Annx.A1 & A2 and any other policy or circular/order denying the regularisation and payscale to Group-C category of employees.

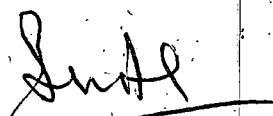
2. Facts of the case as stated by the applicant are that applicant No.1 did his B.Sc and applicant No.2 did his Secondary Science and both of them are Diploma holders (2 years) from ITI in Refrigeration and Airconditioning Trade. It is stated that names of these applicants were sponsored by the Employment Exchange, Jaipur for recruitment as skilled labour. They were also interviewed, selected and appointed as skilled casual labour in the year 1985 and since then they are working. It is stated that their performance was similar to the regularly selected/appointed Operators and the applicants were also allowed the minimum pay scale Rs.950/- vide order dated 25.2.88. It is further stated that vide order dated 17.12.93, daily rated casual labourers in Group-D appointed between 30.3.85 to 22.6.88 were ordered to be regularised by conferring temporary status on them but no orders were issued regarding Group-C category. It is also stated that the applicant filed O.N. No.402/94 before this Tribunal which was disposed of vide order dated 29.9.94 by directing the respondents to treat the notice at Annx.A1 as representation and decide the same in accordance with rules by a detailed speaking order within 2 months. It is further stated that the applicants were required to be regularised as skilled labour in Group-C category as they were performing the duties of Group-C category posts and they were also fulfilling the essential conditions for regularisation but under the garb of impugned circulars, the applicants were denied regularisation on the



ground that they were engaged after 1.4.85 and such denial is arbitrary, capricious, illegal and any circular banning appointment in Group-C category is illegal, arbitrary, discriminatory and unreasonable and liable to be quashed. It is stated that the applicants were never engaged in Group-D category, therefore conferring temporary status in Group-D category to the applicant vide order dated 4.8.95 is illegal and without jurisdiction. Therefore, the applicant filed this O.A for the relief as above.

3. Reply was filed. It is stated that the applicants were engaged as skilled casual labour on Muster-roll for carrying out casual nature of work and they were not engaged against any regular post. It is stated that the respondents' department issued instructions vide letter dated 7.11.89 to confer temporary status w.e.f. 1.10.89 to those who have entered in the department on or before 30.3.85 and in pursuance of these instructions the applicants were also demanded such benefits but they could not be given such benefits. Later on the respondents' department further extended this benefit to casual labourer who entered in the department between 31.3.85 to 22.6.86 and under this scheme the applicants' were conferred temporary status in Group-D and thereafter in Group-C post in phases. It is stated that after regularisation of applicants in Group-D category, their pay was fixed as per rules and the applicants are not entitled to regularisation and regular scale of pay of Group-C category posts as prayed by them and their demand for regularisation in Group-C category post was rightly turned down and in this way the applicant has no case.

4. Rejoinder has been filed reiterating the facts as



stated in the O.A.

5. Heard the learned counsel for the parties and also perused the whole record.

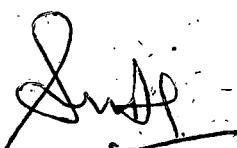
6. The learned counsel for the applicant vehemently argued that the applicants are entitled to regularisation and regular scale of pay in Group-C category post. In support of his contention, he has referred to 1999(4) SCC 62. On the other hand, the learned counsel for the respondents objected this argument and emphasised that the applicants being casual labourers are not entitled to regularisation in Group-C post.

7. We have given anxious consideration to the rival contentions of both the parties and also perused the whole record.

8. In Union of India Vs. Moti Lal & Ors, 1996 33 ATC 304, it was held by Hon'ble Supreme Court that persons appointed directly as casual mates i.e. Group-C are not entitled to regularisation although continued as such for a considerable period and acquired temporary status.

9. The Full Bench of this Tribunal in Aslam Khan Vs. Union of India & Ors, held that persons directly engaged in Group-C post (Promotional post) on casual basis and subsequently acquired temporary status would not be entitled to be regularised on Group-C post directly.

10. In Ram Chander Vs. General Manager, Northern Railway New Delhi & ors, it was held that regularisation can be made in pursuance to a scheme or an order in that behalf against a regular available vacancy and that too according to prescribed rules. Merely working on a post though of a higher category, for a number of years on ad hoc basis will

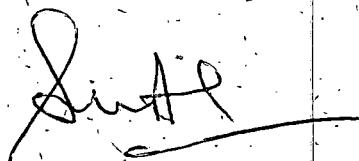


not vest a person with a right to get regularised on a post which is meant to be filled up by regular recruitment under statutory rules. It was further held that a casual labour first of all will be regularised in Group-D category and promotion thereafter would be depend up on the regulation and rules laid down on the subject.

11. In Jamna Prasad & Ors Vs. Union of India & Ors, 2000

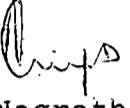
(1) SLJ 512, Principal Bench of the Tribunal held that a casual labourer in Railways cannot be regularised in Group-C post.

12. In the instant case, admittedly, the applicants were engaged as skilled casual labour on Muster-roll and they have been conferred temporary status of Group-D category and regularisation was refused to them on the ground that they have been engaged after 31.3.85. The counsel for the applicants vehemently urged that this cut off date fixed by the impugned circular is arbitrary, capricious, illegal and unreasonable and in violation of Article 14 of the Constitution of India. We are not inclined to accept the contention of the learned counsel for the applicants as the applicants failed to establish any case of arbitrariness or discrimination. After all some cut-off date has to be fixed and the same is not arbitrary or discriminatory therefore the cut-off date so fixed is valid and cannot be interfered. In the instant case, in our considered view that fixing the cut-off date is not at all arbitrary, discriminatory or unreasonable, therefore, we do not find any ground to interfere. The legal citation as referred by the learned counsel for the applicants is distinguishable therefore, the same does not help the applicants in any way.

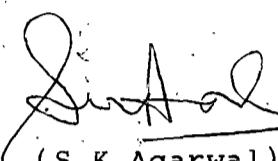


13. In view of the settled legal position, facts and circumstances of this case, we do not find any merit in this O.A and the same is liable to be dismissed.

14. We, therefore, dismiss the O.A with no order as to costs.

  
(A.P.Nagrath)

Member (A).

  
(S.K.Agarwal)

Member (J).