

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

O.A.No.254/99

Date of order: 29/8/2001

Abdul Samad Khan, S/o Shri Abdul Masid Khan, working  
under Telecom Manager, Sawaimadhopur.

...Applicant.

Vs.

1. Union of India through Secretary, Mini. of Communication, Deptt of Telecommunication, Sanchar Bhawan, New Delhi.
2. Chief General Manager, Telecommunication, Jaipur.
3. Telecom District Manager, Sawaimadhopur.

...Respondents.

Mr. Shiv Kumar : Counsel for applicant  
Mr. Bhanwar Bagri : for respondents.  
Mr. D. K. Swamy

CORAM:

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

Hon'ble Mr. S. A. T. Rizvi, 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 quash and set aside the order dated 31.8.98, (ii) to direct the respondents to confer temporary status to the applicant as per OM dated 7.7.88 (Annex.A3) and OM dated 10.9.93 (Annex.A4) w.e.f. the year 1985 and (iii) to direct the respondents to revise the pay of the applicant in the light of the OM's (Annex.A3 & A4) as referred above.

2. Facts of the case as stated by the applicant are that the applicant was initially engaged as casual Driver in the year 1984 but his services were terminated in the year 1985. The applicant challenged the said termination and

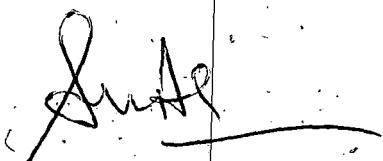


thereafter he was taken on duty in pursuance of the award/order dated 29.5.92 in the year 1993. It is stated that thereafter the applicant filed many representations for conferring temporary status and regularisation of his services but nothing was done. It is stated that the applicant has completed 240 days service in a year, therefore, he is entitled to temporary status and regularisation as per OMs dated 7.7.88 and 10.9.93. It is stated that the applicant filed OA No.509/97 before this Tribunal and this Tribunal gave directions to decide the representation but the representation was rejected by the respondents vide the impugned order dated 31.8.98. It is stated that vacancy of Driver exist but still the applicant has neither been conferred temporary status nor he has been regularised. Therefore, the applicant filed this O.A for the relief as above.

3. Reply was filed. It is stated in the reply that the applicant was engaged on daily wage basis therefore his claim for regularisation/regular scale of pay/temporary status is baseless. It is further stated that the schemes as referred by the applicant are not applicable in the case of the applicant and the representation filed by the applicant was considered on merits and was rightly rejected. Therefore, the applicant has no case.

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

5. The scheme as referred by the applicant at Anxx.A3 and Anxx.A4 are not applicable in the instant case. A detailed and speaking order has been passed by the competent authority while disposing of the representation filed by the applicant and categorically held that the schemes as

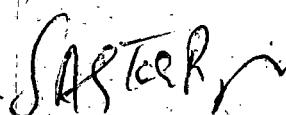


referred in this O.A are not applicable in the case of the applicant hence according to these schemes, the applicant is neither entitled to temporary status nor regularisation. However, on a perusal of the reply, it appears that the applicant was given an opportunity to participate in the process of selection for the vacant post of Driver meant for outsiders but the applicant did not avail that opportunity.

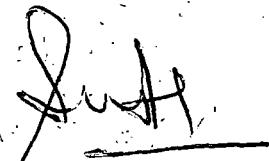
6. A casual labour can be regularised only after selection as per the scheme framed by the department. Merely long service as casual labour cannot make one a regular hand. The question of regularisation of such workers depend on recruitment rules and government policies if any. The Court/Tribunal cannot give direction to regularise such casual labourer's de-horse the rules/government policy as it has been held in State of Himachal Pradesh Vs. Suresh Kumar Verma, 1996(2) SLR 321.

7. In the instant case, the applicant was only engaged as casual Driver on daily wage basis and the schemes as referred by the applicant in this O.A are not applicable in the case of the applicant. Therefore, in view of the facts and circumstances of this case and settled legal position, the applicant is not entitled to be conferred a temporary status and he is not entitled to any regularisation on the post of Driver. Therefore, the applicant has no case for interference by this Tribunal and this O.A devoid of any merit is liable to be dismissed.

8. We, therefore, dismiss this O.A having no merits with no order as to costs.



(S.A.T.Rizvi)  
Member (A).



(S.K.Agarwal)  
Member (J).