

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

OA 387/2000

DATE OF ORDER: 28.7.2003

Sohan Lal Soni son of Shri Kalu Ram soni office of Sub-Divisional Officer/Engineer (Central), Office of the General Manager (Telephones), M.I. Road, Jaipur c/o resident of A/19, Mahesh Nagar, Jaipur.

.... Applicant

VERSUS

1. Union of India through its Secretary, Telecom Department, Sanchar Bhawan, New Delhi.
2. The Principal General Manager, Telecom Department, GMD, M.I. Road, Jaipur.
3. Sub-Divisional Officer (R&E) Office of General Manager (Telephones), Telecommunication Department, Jaipur.

.... Respondents.

None present for the applicant.

Mr. S.K. Agarwal, Proxy counsel for
Mr. Sanjay Pareek, Counsel for the respondents.

CORAM:

Hon'ble Mr. M.L. Chauhan, Member (Judicial)

ORDER (ORAL)

The applicant was initially appointed as Casual Labourer by the respondents from October, 1982 to April, 1984 and thereafter in July, 1984 and further from September, 1986 to May, 1987. But again the services of the applicant were discontinued and as such he filed OA No. 97/89 before this Tribunal. This Tribunal vide order dated 4.7.1994 after hearing the parties directed that the applicant had worked for 213 days in the subsequent appointment and 1 year nine months in the earlier occasion. As such the applicant can get

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the advantage of Section 25-H of the Industrial Disputes Act and as such no relief can be granted at this stage. However, if any person junior to the applicant in the matter of employment is engaged, the case of the applicant may also be considered under Section 25-H. For this purpose, the total period i.e. the period of 1982 to 1984 and 1986 to 1987 should be considered as one period for getting a preferential treatment under Section 25-H of the Industrial Disputes Act.

In pursuance to the order passed by this Tribunal, the applicant was re-engaged as Casual Labour on 31.10.1994. The grievance of the applicant is that the persons engaged after the termination of services of the applicant has been regularised from the date of their appointment whereas the same benefit has not been extended to him. It is further averred that applicant has also submitted repeated representations to the ~~app~~ respondents but nothing has been heard. However, the applicant was granted temporary status w.e.f. 12.2.1999 whereas the same ought to have been given w.e.f. 13.9.1995, the date on which subsequent appointees were given the status with all consequential benefits.

2 The respondents have filed the reply. Their stand is that the person named by the applicant in the OA have been regularised as per the provisions of the departmental rules. They ^{are} senior to the applicant. In addition to above, Shri Laxmi Narain Sharma and Shri Raj Kumar Saini alongwith temporary status Mazdoors were regularised vide order dated 21.10.1993 who have worked more than ten years as Casual Labourers whereas the applicant does not fulfil the condition of ten years required for regularisation as per the provisions of the departmental rules. It is further submitted that the applicant was taken back in service only on dated 4.7.1994 31.10.1994 pursuant to the order passed by this Bench and he was granted temporary status w.e.f. 12.2.1999 vide order dated 30.7.1999 on receipt of the instructions from the ~~DOE~~ DOT, New Delhi dated 15.7.1999.

3. None has put in appearance on behalf of the applicant. I have heard Mr. S.K. Agarwal, Proxy counsel for Mr. Sanjay Pareek, Counsel for the respondents and have gone through the material placed on record.

4. It is not disputed that the applicant was re-engaged as Casual Labourer pursuant to the order of this Tribunal in OA No. 97/89 decided on 4.7.1994. It is not the case of the respondents that the applicant has not put in one year of continuous service as Casual Labourer after his re-engagement as on 13.9.1995 and he is not entitled to temporary status in terms of 'Casual Labourers (Grant of Temporary Status & Regularisation) Scheme, ~~was given~~. It was incumbent upon the competent authority to confer temporary status on the applicant from due date in terms of aforesaid Scheme. The case ~~is~~ set out by the respondents in their reply is that the matter regarding grant of temporary status was taken up before the higher authorities and on receipt of instructions from DOT, New Delhi endorsed under CGMT, Rajasthan Jaipur No. Rectt./1-20/V dated 15.7.1999, the applicant was granted temporary status w.e.f. 12.2.1999 and order in this regard was issued vide letter No. RE-9/41/111 dated 30.7.1999 as per the departmental rules. The respondents have not placed any material on record to show as to why the applicant was not entitled to temporary status after he has rendered 240/206 days of service as contemplated in the Scheme for the grant of temporary status. It appears that the respondents were not sure about the grant of temporary status to the applicant as such the matter was taken up with the DOT and the DOT vide letter dated 15.7.1999 had clarified that the applicant is entitled to temporary status. The respondents have also not placed on record the letter dated 15.7.1999 issued by the DOT on record. Thus once the applicant was held entitled for temporary status, though from latter date i.e. from 12.2.1999, it was incumbent upon the respondents to grant the same to the applicant from due date in terms of

the Scheme for grant of temporary status which stipulates that the person shall be entitled for grant of temporary status after rendering continuous service of 240/206 days.

5. In view what has been stated above, the applicant is entitled to the relief as prayed for. The respondents are directed to confer the temporary status on the applicant w.e.f. 13.9.1995 and consider his case for regularisation in his own turn and according to departmental rules/policy taking into account the date of conferment of temporary status as on 13.9.1995 instead of 12.2.1999. The respondents are directed to pass necessary order conferring temporary status w.e.f. 13.9.1995 within two months from the date of receipt of a copy of this order and also consider his case for regularisation, if he is entitled to such relief on the basis of conferment of temporary status w.e.f. 13.9.1995.

6. With these observations, the OA is allowed with no order as to costs.


(M.L. CHOHAN)
MEMBER (J)