

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

CIRCUIT COURT AT Gwalior

Original Application No. 148 of 1998

Gwalior this the 25<sup>th</sup> day of April 2003

Hon'ble Shri R.K. Upadhyaya -- Administrative Member.  
Hon'ble Shri J.K. Kaushik -- Judicial Member.

Har Prasad Paraser, S/o.  
Shri Deviram, Aged 43 years,  
Occupation - Mazdoor in Telecommu-  
nication Deptt., R/o. C/o. Railway  
Electrification Office, E-3/179,  
Arera Colony, Bhopal (M.P.).

(By Advocate = Shri S.C. Sharma)

## Versus

1. The Union of India, Through  
The Secretary, Department of  
Telecommunications Sanchar  
Bhawan, New Delhi.
2. The Chief General Manager  
Telecom, Railway Electrification,  
300 Hanessey Road, Civil Lines,  
Nagpur.
3. The Chief General Manager  
Telecom, M.P. Telecom Circle,  
P&T Complex, Hosangabad Road,  
Bhopal.
4. Telecom Divisional Manager,  
Morena (M.P.).

(By Advocate - Shri T.C. Singhal)

ORDER

By J.K. Kaushik, Judicial Member :-

Shri Har Prasad Parashar has filed this application under section 19 of the Administrative Tribunal Act, 1985 for seeking a direction to the respondents to regularise the services of the applicant under the scheme issued by the Government as well as the direction of this Tribunal indicated in para 4.10 of the application.

2. The brief facts of the case necessary for adjudication of the contravention involved are that the applicant was

initially engaged as a Muster Roll Employee in Railway Electrification Project Circle in December 1978. He has been continued to be employed in different projects. He was also imparted Head Mazdoors training under Reorientation at Jhansi. At one time he was informed that he has been extended the benefit of temporary status with effect from 01/10/1989. His name was also sent for regularisation. Number of persons junior to the applicant has been already regularised. There was a drive to regularise the persons who have completed 10 years but despite the applicant has completed 17 years of service he has not been given the benefit of regularisation so far. The applicant's application has been filed on multiple grounds and has taken the main ground of arbitrariness and discrimination in addition to the violation of the Government policy. Hence this application.

3. The respondent No. 4 has filed a separate reply. Thereafter a joint reply has been filed on behalf of respondent No. 2, 3 and 4. It has been submitted that the applicant was originally engaged by the SDOT, Gwalior from December 1978. He came to RE in No. 84 at his own choice as per Annexure R/1. The TSM was wrongly granted to him and the same was cancelled. However he has been granted temporary status vide letter dated 17/02/1993 as per DOT instructions dated 17/10/1988. The main defence of the respondents are that the applicant did not fulfill the conditions required for regularisation. The case is misconceived and based on wrong facts. The case is distinguishable from the one which was decided by this Tribunal and there has been no violation of the Government policy. The original application has no force and the same should be dismissed with costs.

3

4. We have heard the learned counsel for the parties and have bestowed our due consideration to the pleadings and the records

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of this case. Both the learned counsel for the parties have reiterated the facts and grounds raised in the application and as far as the factual aspect of the matter is concerned there is hardly any quarrel. The learned counsel for the applicant has made emphatic submissions regarding the fate of the applicant and his service prospects in as much as the applicant has completed over 20 years of service but still remaining under hanging sword of un-certainty. He cannot get any pensionary benefits, until he is regularised. His number of juniors have been regularised much earlier but on one pretext or the other due benefits have not been extended to the applicant. His case is fully covered by the various schemes issued by the Government of India.

5. On the contrary the learned counsel for the respondents has submitted that the applicant has filed a petition before Central Government Industrial Tribunal, Jabalpur and copy of the petition is said to be annexed as Annexure R/3 and as such the present original application is not maintainable. He has also submitted that the applicant never fell under the category of person to be regularised.

6. We have considered the rival contentions submitted on behalf of the parties and have also gone through the relevant scheme regarding the casual labour grant of temporary status and regularisation. The basic scheme and guidelines was issued vide OM dated 07/06/1988 thereafter the separate scheme has been framed by the Telecom Department which is known as Casual Labour (Grant of Temporary Status and Regularisation) Scheme of the Department of Telecommunications 1989. This scheme is analogous to the general scheme issued by the DOPT vide OM dated 09/10/1993. At the very outset we have perused the Annexure R/3 which is said to be same case pending before Industrial Tribunal, Jabalpur but that

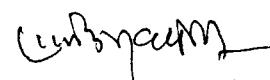
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seems to be a mis-conception of the fact. The Annexure R/3 is a letter dated 17/10/1988 issued by the DOT and thus it is totally mis-statement of facts and no cognizance of the averment made on behalf of the respondents can be taken.

7. As regards the other contentions and repercussion of delay in regularisation the matter could be cut short since the similar controversy has already been resolved by an exhaustive judgment passed by the Jodhpur Bench of this Tribunal in Jokhan Prasad Versus Union of India ATJ2002(1)466 (a copy is placed on records of this case). In that case also the applicants were continued to a very long period and they were also granted the temporary status. We take judicial notice of the discussions made therein and find no necessity of repeating the same afresh. In this view of the matter we have no hesitation in following ~~XXXXXX~~ the same and coming to the conclusion that grievance of the applicant is fully justified. The original application is well merited and deserves to be allowed in the similar terms.

8. In view of the aforesaid discussion the original application is allowed and we direct the respondents to consider the case of the applicant for regularisation on Group-D post. The respondents shall review their requirements of Group-D staff in terms of the guidelines issued under OM dated 07/06/1988 and create the requisite number of regular Group-D posts within a period of six months from the date of receipt of acertified copy of this order. After creation of the posts, the applicants shall be considered for regularisation within a period of three months thereafter in the light of the provisions of the Casual Labourers (Grant of Temporary Status and Regularisation), Scheme of DOT, 1989 and the observations made above. The applicant shall also be entitled for all consequential benefits. However we made no order as to costs.

  
(J.K. KAUSHIK)  
Judicial Member

  
(R.K. UPADHYAYA)  
Administrative Member

पूछावन से ओ/न्या.....जबलपुर, दि.....

परिचिति वाले विल:-

(1) शंकर, राम शर्मा वा वार राम, शर्मा, जबलपुर  
(2) अमिता दीपि नीरु.....के कान्सन SC Sharma, Adv. & W.  
(3) अमिता दीपि नीरु.....के कान्सन C. Singh, Adv. & W.  
(4) अमिता, दीपि नीरु वार राम, शर्मा

सूचना एवं आवश्यक कार्यालयी देते

Noticed Case

1.5.03

10/5/03  
15/5/03