

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No.28 of 1998

Jabalpur, this the 25th day of February, 2003.

Hon'ble Mr.R.K.Upadhyaya, Member (A)
Hon'ble Mrs.Meera Chhibber, Member (J)

Kifayat Ullah son of Shri Barkat
Ullah, aged about 30 years, resident
of 83 Gautam Nagar, PGBT College,
Bairasia Road, Bhopal.

-APPLICANT

(By Advocate- None)

Versus

1. Union of India through Secretary,
Ministry of Communication, New Delhi.
2. Chief General Manager,
M.P.Circle, M.P. Bhopal.
3. Telecom District Engineer,
Dhar (M.P.)
4. Sub Divisional Officer,
Telecom, Dhar (M.P.)

-RESPONDENTS

(By Advocate- Mr.S.A.Dharmadhikari for
Mr.S.C.Sharma)

O R D E R (ORAL)

By Hon'ble Mrs.Meera Chhibber, Member (J):

By this O.A., the applicant has sought the following
reliefs:-

- "(1) To direct the respondents to give the benefit
to the applicant of the judgement contained in
Annexure A-1, to this application by regularising
his services.
- (2) To direct the respondents to reinstate the
applicant on the post on which he was working
alongwith back wages.
- (3) To direct the respondents to regularise the
services of the applicant as per the circulars
issued by the respondents department itself
from time to time.
- (4) Any other relief which this Hon'ble Tribunal may
deem just and proper may also be granted together
with costs in favour of the applicant."

Contd...P/2.



2. It is submitted by the applicant that he was engaged in the respondents department as Muster Roll Labourer from February 1986 to May 1987, but he was illegally stopped from working since December, 1989 (Annexure A-2). He has further submitted that respondents have issued a circular dated 4.1.1994 (Annexure A-3) for grant of Temporary Status to the Casual Muster Roll Mazdoors engaged upto 22.6.1988, and since the applicant comes within the purview of the circular dated 4.1.1994, he applied for regularisation and grant of temporary status. Thereafter, his case was referred to higher authority for consideration. He has further submitted that some employees had approached the Tribunal by filing OAs, in which the Tribunal was pleased to direct the respondents that in cases where appointments are made prior to 22.6.1988, such employees shall be regularised and in cases where appointments are made after 22.6.1988 and termination orders have been passed without payment of retrenchment compensation, the orders of termination are quashed. The same judgement is filed ^{as} Annexure A-1 with the O.A. The applicant has claimed the benefit of this judgement in the present case.

3. The respondents have opposed this O.A. and have stated that the applicant is not entitled to the relief claimed by him, as he does not come under the scheme of 4.1.1994 ² and ^{al} he was not working on the date when the said circular was issued. Moreover, they have also explained that ^{the} development of Telecom facilities in the State, an ambitious planning was done and gigantic target was fixed year-wise to increase the telecom facilities, namely opening of long distance connection in rural areas, opening of village telephones in the State, opening of exchange in rural areas, laying of

cables and other related works of installation etc. and these targets were completed in the same year in short period. Therefore, in order to meet the said targets, the respondents ^{had B} ~~were~~ engaged casual labourers, but as and when the works were completed, the casual workers were not required to continue. Accordingly, they were discontinued. Counsel for the respondents have also submitted that the case of the applicant is barred by limitation in as much as even according to the averments ^{of applicant} he had last worked in December, 1989, while the present O.A. was filed only on 09.01.1998. Therefore, this O.A. is liable to be dismissed on this ground. This matter was listed for hearing on 21.1.2003 and counsel for the respondents had stated that the matter was fully covered by the decision of Full Bench, accordingly, the case was listed for hearing on 24.2.2003. On 24.2.2003 none appeared for the applicant. Accordingly, a last chance was given to the counsel of the applicant to appear on 25.2.2003. Today again neither the counsel of the applicant is present in the Court, nor there is any request for adjournment on his behalf. This matter was called out in the revised call and since nobody is present on behalf of the applicant in the revised call, we are proceeding to decide this case by attracting Rule 15(1) of CAT (Procedure) Rules, 1987 after hearing the learned counsel of the respondents.

4. We have perused the pleadings and heard the learned counsel of the respondents.

5. Admittedly as per applicant's ^{own B} averment ~~that~~ ~~the~~ he had worked from Feb.1986 to May 1987 and was stopped from working in December, 1989. Therefore, if any cause of action had arisen in favour of the applicant, it was in 1990, as the period of limitation laid down in Administrative Tribunal's Act, 1985 is one year. No such O.A. was filed by the applicant.

Therefore, this case is clearly barred by limitation. The Hon'ble Supreme Court in the case of Ratan Chandra Samanta & others Vs. Union of India & others, reported in 1993 (4) Supp SCC 87 has held that those who sleep over their right, are not entitled to any relief. Similarly, the Hon'ble Supreme Court in the case of Ramesh Chand Sharma etc. Vs. Udham Singh & others reported in 2000 (2) AISLJ 89 has held that the Tribunal cannot even entertain the petition barred by limitation unless there is specific request for condoning the delay. In the instant case, it is seen that no such application has been filed by the applicant for condonation of delay. Therefore, this case would be fully covered by the judgement of Hon'ble Supreme Court as referred to above. Accordingly, this case has to be dismissed on the ground of limitation itself. However, since the matter was pending since 1989, we also looked into the merits of the case and since the applicant had relied on the circular dated 4.1.1994, we tried to find out the merits of the case. The said circular is annexed with the application as Annexure A-3. In the circular dated 4.1.1994, it was specifically stated that by office order dated 25.6.1993 orders were issued to extend the temporary status to all those Casual Mazdoors, who were engaged by the Project Circles/Electrification Circles during the period 31.3.1985 to 22.6.1988 and who were still continuing for such works where they were initially engaged and who were not absent for the last more than 360 days. Therefore, it is clear that the benefit of the said orders were to be given only to such persons, who were still working on the date of issuance of the circular. A somewhat similar question came up for consideration before the Hon'ble Supreme Court wherein the scheme issued by the DOPT on 1.9.93 was considered and after considering all the aspects Hon'ble Supreme Court

held that the said scheme was a one time measure and it could be extended to only those casual labourers, who had completed one year and were on rolls on the date of issuance of the said OM to be precise. The Hon'ble Supreme Court in the case of Union of India & others Vs. Mohan Pal reported in AIR 2002 SC 2001 while considering the said scheme held as under:-

".....We do not think that clause 4 of the Scheme envisages it as an ongoing Scheme. In order to acquire 'temporary' status, the casual labourer should have been in employment as on the date of commencement of the scheme and he should have also rendered a continuous service of atleast one year which means that he should have been engaged for a period of atleast 240 days in a year or 206 days in case of offices observing 5 days a week. From clause 4 of the Scheme, it does not appear to be a general guideline to be applied for the purpose of giving 'temporary' status to all the casual workers, as and when they complete one year's continuous service. Of course, it is up to the Union Government to formulate any scheme as and when it is found necessary that the casual labourers are to be given 'temporary' status and later they are to be absorbed in Group 'D' posts."

It is thus seen that the Hon'ble Supreme Court held that the scheme of 1.9.93 is not an ongoing Scheme and the temporary status can be conferred on the casual labourers in employment as on the date of the commencement of the Scheme and they should have rendered continuous service of at least one year, i.e., at least 240 days in a year or 206 days (in case of offices having 5 days a week). It was further made clear that those who have already been given temporary status on the assumption that it is an ongoing Scheme shall not be stripped of the temporary status pursuant to the decision taken in the instant case. In our considered view the present case would be fully covered by the principle laid down in the case of Union of India and others Vs. Mohan Pal in as much as in the present case also, the circular, which has been relied upon by the applicant, it was clearly mentioned

