

**SIN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD**

Original Application No. 20/630/2017

Date of Order: 08.01.2019

Between:

1. A. Satyanarayana, S/o. Konda Marribandu,
Aged 52 years, Ex-Casual Mazdoor, R/o. K. Marribannda (V),
Regulapalem (PO), Yelamanchili (M), Visakhapatnam.
2. L. Satyanarayana, S/o. Lakshamanullu,
Aged 51 years, Ex-Casual Mazdoor, R/o. Rukminipuram (V),
Regulapalem (PO), Yelamanchili (M), Visakhapatnam.
3. Vemulapudi Simhachalam, S/o. Samudrala,
Aged 52 years, Ex-Casual Mazdoor, R/o. Mattapalem (V),
Regulapalem (PO), Yelamanchili (M), Visakhapatnam.
4. Ittamsetty Satyanarayana, S/o. Kannayya,
Aged 52 years, Ex-Casual Mazdoor, R/o. Rukminipuram
(Savari Nayanammapalem, Regulapalem (PO),
Yelamanchili (M), Visakhapatnam.
5. B. Sanayasi Rao, S/o. Ellaiah,
Aged 51 years, Ex-Casual Mazdoor, R/o. Mattalem (V),
Regulapalem (PO), Yelamanchili (M), Visakhapatnam.
6. Rathula Rajubabu, S/o. Pedda Appalanaidu,
Aged 50 years, Ex-Casual Mazdoor, R/o. Marribandha (V),
Regulapalem (PO), Yelamanchili (M), Visakhapatnam.
7. K. Appla Naidu, S/o. Satyanarayana,
Aged 50 years, Ex-Casual Mazdoor, R/o. Pothireddypalem (V),
Purusothpuram (PO), Visakhapatnam Dist.
8. K. Nageswara Rao, S/o. Konda,
Aged 51 years, Ex-Casual Mazdoor, R/o. Marribandha (V),
Regulapalem (PO), Yelamanchili (M), Visakhapatnam.
9. R. Sankar Rao, S/o. R. Rajulu,
Aged 51 years, Ex-Casual Mazdoor, R/o. Marribandha (V),
Regulapalem (PO), Yelamanchili (M), Visakhapatnam.
10. Rajana Satyam, S/o. Kannayya,
Aged 50 years, Ex-Casual Mazdoor, R/o. Sommanapalm (V),
Regulapalem (PO), Yelamanchili (M), Visakhapatnam.

... Applicants

And

1. The Union of India,
Rep. by the Chief General Manager,
Telecom, A.P. Circle, Doorsanchar Bhavan,
Hyderabad -1.
2. The General Manager,
E.G. Telecom District, BSNL, Rajahmundry, A.P.
3. AGM (Planning) BNSNL,
O/o. Senior General Manager, Telecom district,
Rajamahendravaram – 533 150.

... Respondents

Counsel for the Applicants ... Mrs. Anita Swain
 Counsel for the Respondents ... Mrs. K. Rajitha, Sr. CGSC
 Mr. M.C. Jacob, SC for BSNL

CORAM:

Hon'ble Mr. B.V. Sudhakar ... ***Member (Admn.)***

ORAL ORDER
{As per Hon'ble Mr. B.V. Sudhakar, Member (Admn.) }

2. The applicants are challenging the action of the respondents in not granting temporary status and *for not engaging them as outsiders*.
3. As per the version of the applicants they worked for varying periods for the respondents organisation as casual labourer ranging from 120 to 1371 days in the years from 1984 to 1997. They were paid wages as per the muster roll. However, as their services were being discontinued after certain interval of time the applicants approached this Tribunal in OAs 1502/1994, 406/1999, and the Industrial Tribunal in 2002. On the intervention, they were temporarily employed and thereafter were disengaged on grounds that there was no work and that casual labourers were not engaged anymore. The Industrial Tribunal directions were to give preference to the applicants if the respondents were engaging casual labourers. However, not getting relief desired, the applicants again approached this Tribunal in OA 1315/2015 which was disposed to consider the plea of the applicants but the respondents negated the plea on the

grounds that there is a ban to engage casual labour from 1988. Further, they assert that despite the O.M dt 10.9.93 of DOPT provides scope for they being given temporary status they are denied the same but whereas applicants' juniors were given temporary status. Besides the respondents are engaging fresh labour manpower from the market instead of them. Aggrieved over the same the OA has been filed.

4. The contentions of the applicant are that they are eligible to be considered for temporary status under DOPT O.M dt 10.9.93. Juniors to them have been given temporary status on 17.8.2000 and even regularised on 1.10.2000. The service records with the 4th respondent do establish that they are eligible for being granted temporary status. The respondents have discontinued their services to deprive them of the temporary status.

5. Respondents take the stand that the Tribunal orders were to engage the applicants when there is work in preference to engaging fresh casual labourers. However, as they are not engaging any casual labourer the applicants could not be engaged. Consequently the applicants never worked for them after 1992. The issue was also contested in the Industrial Tribunal by the 1st applicant and the direction dated 29.4.2003 thereof, was to give preference to engage the applicant if the respondents engage casual labour. Respondents did not engage any casual after the order of the Industrial Tribunal and hence the applicant was not engaged. DOT imposed a ban on recruiting casual labour but allowed to engage for 60 days and 100 days depending on exigencies by letter dated 12.2.1999 and 15.6.1999. However such a power to engage was withdrawn from the subordinates even for such engagement. As a result, the request for reengagement of the applicants could not be considered. Further, BSNL was formed on 1.10.2000 and no policy has been evolved to recruit casual labour.

Tender notification has been issued to get trenchwork done through machines and technicians. The OM dated 10.9.93 is not applicable as the DOT has evolved the scheme for granting temporary status in 1989 and as per the same, those eligible were granted temporary status as well as regularisation.

6. Heard Smt. Anita Swain, learned counsel for the applicants; Mrs. K. Rajitha, learned Sr. CGSC and Mr. M.C. Jacob, learned Standing Counsel for BSNL on behalf of the respondents. Records submitted were gone through.

7A. The issue is about conferring temporary status to the applicants. They did approach the Tribunal on multiple occasions and on the directions contained therein the respondents acted. However, the main relief of seeking temporary status being not granted the applicants are before this Tribunal once again. Respondents stand is that they are not engaging casual labour and therefore there is no scope to engage. Besides, as per DOT orders in 1989 those who were eligible were given temporary status and even regularised. As the applicants were not eligible they could not be considered. Moreover, after the formation of BSNL no policy regarding casual labour has been evolved. Labour work is being tendered and it requires machines and technicians.

B. The learned counsel has relied on the observations of the Honourable High Court of Karanataka in W.P. No.42511-42516/2015 (S-CAT) and the Hon'ble Bangalore Bench of this Tribunal in OA No. 373/2017, dt. 20.08.2018. The respondents based on the observations of the Hon'ble High Court have constituted a committee to locate and verify the records as well as to give opportunity to the applicants to produce records available with them and indicate the officers under whom they worked. Learned counsel for the applicants pleaded that justice could be done if a similar exercise is done in respect of the applicants in the present OA. Learned counsel for the respondents did mention

that this being an old case, tracing records would be difficult. However, applying the ratio of the Honourable High Court of Karnataka to the present case, it is seen that the applicants are claiming that they have worked for the respondents from 1984 to 1997. They have produced records signed by officers of the rank of sub divisional officers indicating that they have worked for the respondents during the said period. In contrast the respondents claim that the applicants have not worked for the respondents organisation from 1992 in the reply statement. Therefore there is clear dispute on facts. Hence there is a need to have a fact finding committee to look into the claim of the applicants. In this direction, the observation of the Honourable High Court of Karnataka provides the lead. The respondents can very well consider setting up a committee to look into the claim of the applicants so that they can produce the records available with them and also tender evidence to the committee as to who are the officers under whom they worked. The same can be verified by the committee so that a considered decision can be taken by the respondents. The respondents do also have a responsibility to produce records which they did not submit along with the reply statement to refute the claim based on material papers submitted by the applicants along with the OA. There have been many rounds of litigation on the same issue.

C. To give a quietus to the issue, the Tribunal is of the view that the action of the respondent organisation in complying with the orders of the Honourable High Court of Karnataka would be the ideal one to adopt. The claim of the applicants that BSNL on its formation has not evolved a policy in regard to casual labour may apply to those who were to be taken after its formation. The applicants were working for the respondents from 1984 to 1997 and they have to attend to the issue since they carry the legacy of DOT in the field of

Telecommunication. Respondents did admit that as per the policy of DOT of 1989 they did grant temporary status to the eligible casual labourers. When it comes to the applicants the facts are under serious dispute which need to be cross examined by a committee so that collective wisdom prevails. It is also to be accepted that the respondents may have to go in for tenders to get trench work done which is mostly mechanised and involves skilled man power. Applicants cannot claim that they have to be engaged in jobs requiring technical skills.

D. Hence keeping in view the judgment of the Honourable Karnataka High Court in writ petition cited above and the action taken by the respondent organization pursuant thereto, a similar Committee can be formed wherein the applicants will have an opportunity to produce records and also indicate the officers under whom they worked so that the committee can take a final view and decide the issue as per the DOT policy of 1989 and extant rules & regulations of the respondents. The respondents shall also give proper assistance to the Committee by providing relevant records. Action in this direction has to be taken in a period of 3 months from date of receipt of this order.

E. With the above directions the OA is disposed of. There shall be no order as to costs.

**(B.V. SUDHAKAR)
MEMBER (ADMN.)**

Dated, the 8th day of January, 2019

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