

THE HON'BLE SRI JUSTICE K.C.BHANU

AND

THE HON'BLE MRS. JUSTICE ANIS

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WRIT PETITION No.11110 OF 2011

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ORDER: (per Hon'ble Sri Justice K.C.Bhanu)

This Writ Petition is filed challenging the order dated 06.01.2011 in Tr.A.No.49 of 2009 (W.P.No.2714 of 2008) on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad (for short, "the Tribunal").

2. The applicant/petitioner herein filed the aforementioned Transfer Application before the Tribunal to declare the impugned proceedings of the second respondent, dated 17.11.2007 vide letter No.GMTD/TRP/C.MAZ/REGU/2007/Vol.II, rejecting the claim of the applicant for appointment/absorption as TSM in the respondents' Corporation on par with his juniors as per the order of this Court dated 06.07.2007 in W.P.No.14434 of 2007 as illegal and arbitrary.

3. It is the case of the applicant/writ petitioner that he was appointed as Casual Mazdoor under the Sub Divisional Officer, Phones, Tirupathi on 01.02.1987 and continued to work till November, 1987. He had also worked as Casual Mazdoor from 01.01.1988 to 30.09.1989. Admittedly, the applicant/petitioner services were terminated on 01.10.1989 on the ground that the Telecom Department banned recruitment of fresh Casual Mazdoor. Again the applicant was re-engaged as Casual Mazdoor by the Sub Divisional Officer, Telecom, Piler on 01.02.1992 and continued till 31.05.1992 and he had put up service of 121 days. Similarly, in the year 1994-1995, he had put up service of more than 276 days. As no temporary status was given, the applicant/petitioner herein filed O.A.No.535 of 1998 on

the file of the Central Administrative Tribunal, Hyderabad. The Tribunal, by its order dated 01.10.1999, directed the respondents therein to grant temporary status to the applicant/petitioner herein forthwith. The matter was carried before this Court by filing W.P.No.12219 of 2000, which was allowed by an order dated 19.10.2006 setting aside the order dated 01.10.1999. Thereupon, the applicant made a detailed representation in the month of November, 2006 to consider his case for engaging him as casual labour and subsequent regularization. As no action has been taken, the applicant/petitioner herein filed W.P.No.14434 of 2007 before this Court. The said Writ Petition was disposed of vide order dated 06.07.2007 wherein, it was held as under:

“In the facts and circumstances of the case, without expressing any opinion on merits, I deem it appropriate to direct the respondents to consider the representation purported to have been made by the petitioner on 07.03.2007 and pass appropriate orders as per law. If it is found that the juniors to the petitioner are being continued, petitioner shall also be considered for appointment/absorption into service of respondent corporation, within a period of six weeks from the date of receipt of a copy of this order and communicate the same to the petitioner.”

4. Thereupon, the impugned order dated 17.11.2007 was passed with the following grounds:

“(i) The records of engagement of the applicant prior to 2nd February, 1995 are not available for verification. As stated by the applicant, the engagement is for intermittent period for specified purposes and specific time and the applicant had been disengaged after the expiry of the work.

(ii) As per the applicant's own admission, he has been engaged on contract from 3rd February, 1995 and thus there is no employer and employee relationship. The said engagement on contract and disengagement in 1995 has not been assailed in the appropriate forum and has become final.

(iii) In view of the ban vide Department of Telecommunications letter dated 12th February, 1999, and further letter dated 15.06.1999 imposing total ban on engagement of casual labour in continuation of the ban vide letter dated 22nd June, 1988, there was no scope to grant temporary status or

regularization in the absence of any employer and employee status from 3rd February, 1995 and,

(iv) The cases cited by the applicant about the other casual labour are distinct and different and have no bearing and relevancy for the purpose of his representation dated 7th March, 2007. Accordingly, the same was rejected.”

Challenging the same, the aforementioned O.A. was filed. The Tribunal, after considering the case of the petitioner, came to the conclusion that the applicant was not on rolls as on 01.10.1989 and the terms and conditions issued by the DGP&T, New Delhi in its letter dated 07.09.1989 and 07.11.1989 have not been complied with and therefore held that the representation of the applicant has been considered in pursuant to the directions given by this Court and there is no scope for judicial interference and accordingly, the O.A. was dismissed. Challenging the same, the present Writ Petition is filed.

5. Learned counsel for the petitioner contended that the proceedings issued by the Sub-Divisional Engineer Telecom, Piler, dated 23.05.1994, would clearly go to show that the petitioner worked in the department from 21.02.1987 to 31.05.1992 for more than 240 days and therefore as per the Department of Telecommunications orders, the petitioner is entitled for confirmation of the temporary status.

6. On the other hand, learned counsel for the respondents contended that as the applicant was not on rolls as on 01.10.1989, in accordance with the rules contained in DGP&T, New Delhi vide letter No.269-10/89/STN, dated 07.09.1989, he cannot be entitled for grant of temporary status. Therefore, he prays for dismissal of the same.

7. No material is filed before the Tribunal to show that the petitioner was on rolls as on 01.10.1989. The terms and conditions for grant of temporary status as issued by DGP&T in its letters dated 07.09.1989 and 07.11.1989 would clearly go to show that no Casual Mazdoor who

has been recruited after 30.03.1985 should be granted Temporary Status without specific approval from the BSNL Headquarters. Therefore, it is not in dispute before this Court that the grant of temporary status will be subject to the terms and conditions issued by the DGP&T, New Delhi vide letter dated 07.11.1989. In pursuance to the terms and conditions therein, the petitioner is not entitled for confirming of grant of temporary status. Therefore, the Tribunal has rightly dismissed the same and the order of the Tribunal needs no interference of this Court.

8. Accordingly, the Writ Petition is dismissed. There shall be no order as to costs. As a sequel thereto, Miscellaneous Petitions, if any, pending in this Writ Petition shall stand dismissed.

K.C.BHANU, J

ANIS, J

Date: 18.06.2015

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