

18.03.2025
(D/L-3)
Ct. No.4
(B.K.N.)

W.P.C.T. 124 of 2023

Prithis Kumar Naskar
Vs.
The Union of India & Ors.

Mr. Tarun Kanti Halder,
Mr. G. S. Kaderi
...for the Petitioner

Mr. Dhiraj Trivedi, Ld. D.S.G.I.,
Mr. Rivu Dutta
...for the Respondent No. 1

Mr. Sudipto Panda,
Ms. Jayshri Jha
...for the Respondent Nos. 2 to 7

1. The petitioner having served as a casual labour in the respondent organization approached the Central Administrative Tribunal, Kolkata Bench (CAT) seeking the relief of regularization.
2. The petitioner had initially preferred a writ petition. W.P No. 1351 (W) of 2005 filed by the petitioner was transferred to the Central Administrative Tribunal, Kolkata Bench, having jurisdiction in the matter. It has thus been registered by the Central Administrative Tribunal as T.A. No. 1 of 2011 and has been disposed of on 2nd March, 2016 dismissing the petitioner's claim.
3. The petitioner has preferred a review. R.A. No. 11 of 2016, filed by the petitioner before the Tribunal has also been dismissed. Both these orders are the

subject matter of the present proceedings. The petitioner claimed grant of temporary status/regularization in terms of the scheme called “Casual Labourers (Grant of Temporary Status and Regularization) Scheme of the Department of Telecommunications, 1989” (hereinafter referred to as the 1989 scheme).

4. According to the petitioner the petitioner was covered under the 1989 scheme. In support of such submission he has referred to a communication from the office of the General Manager/North Calcutta Telephone addressed to the AOTR/NB-IV, Calcutta Telephones.
5. It is submitted by the learned counsel for the petitioner that it is apparent from bare perusal of this communication that the petitioner’s name figures at serial number 7 in the list of persons whose pending cases were fixed to be settled on 12th September, 1998. The petitioner therein has been described as “casual labourer” in this communication. Since the document is dated 10th September, 1998 there can be no manner of doubt that the petitioner was working as a casual labourer at least till issuance of this communication dated 10th September, 1998.
6. It is submitted that the 1989 scheme which came into effect on 1st October, 1989 contemplated that it

is applicable to casual labourers “employed” by the Department of Telecommunications. Therefore, there can be no dispute that the petitioner was employed as casual labourer by the Department of Telecommunications on 1st, October, 1989 when the scheme came into vogue. Petitioner has been shown as a casual labourer even in the much later communication dated 10th September, 1998, considered above.

7. He has also drawn attention of the Court to another statement, dated 28th May, 1999 wherein according to him he has been shown as full time casual labourer.
8. The learned counsel for the respondent nos. 2 to 7 has submitted that it is the unambiguous stand of the respondents that the petitioner was engaged as a casual labourer, but only for the period July, 1992 to December, 1996. Even in this period there were different spells of short period during which he was engaged, as and when required. The respondents have also paid him his due for these periods. After December, 1996, that is since January, 1997 he was disengaged from the department and seized to be a departmental casual labourer which is evident from the engagement particulars dated 10th July, 2001 furnished by the field unit where he was working. Thereafter he has been working as a job contract

labourer against a specific jobs from June, 1999 through a contractor, who is making his payment also.

9. Insofar as the communication dated 10th September, 1998, relied upon by the petitioner as noted above, it is submitted that a bare reading of the same discloses that the same was for settlement of pending cases as a result of the exercise initiated by the respondents to identify whether any casual labourers were still existing in the department. The exercise has resulted in a conclusion that beyond December, 1996, the petitioner has not worked as a departmental casual labour.
10. Insofar as the statement dated 28th May, 1999, relied upon by the petitioner it is submitted by the learned counsel for the respondents that the same does not show that the petitioner was employed as a casual labourer on the date of coming into force of the 1989 scheme that is 1st October, 1989. The statement is of a much later date showing the petitioner to be working in between the years 1992 to 1999.
11. The learned counsel has further expressed a doubt on the credibility of this statement, since the same is not signed by the Area Manager, though the proforma of the statement provides a place for signing by the Area Manager/DGM.

12. It is also submitted that the petitioner has not produced even a chit of paper to show that he was employed as a departmental casual labour on 1st October, 1989 being the cut off date in terms of the scheme of 1989.

13. We have considered the rival submissions and find that the 1989 scheme clearly specifies in paragraph 3 thereof that it is applicable to casual labourers “employed” by the Department of Telecommunications. Clause 5 of the 1989 scheme is also relevant. This further clarifies the scope and applicability of the scheme. Clause 5(i) reads as follows:

“5. Temporary Status

i) Temporary Status would be conferred on all the casual labourers currently employed and who have rendered a continuous service of at least one year, out of which they must have been engaged on work for a period of 240 days (200 days in the case of offices observing five day week). Such casual labourers will be designated as Temporary Mazdoor.”

14. A plain reading of the scheme, therefore leaves no room for doubt that all casual labourers who were then **“currently employed”** and who have rendered the requisite number of service in a year were to be designated as a Temporary Mazdoor, and considered for consequential regularization in accordance with this scheme.

15. Therefore, the issue arising for consideration is whether the petitioner was employed as casual

labourer on the date of coming into force of the 1989 scheme, being the cut off date (1st October, 1989). In this regard we find force in the submission of the learned counsel for the respondents that the communication dated 10th September, 1998 relied upon by the petitioner is only a communication calling upon certain persons named therein including the petitioner to consider their pending cases. thereafter the petitioner's claim was considered and he was not found eligible for grant of temporary status or regularization. It is not the petitioner's case that he was thereafter even recommended for regularization, let alone be conferred with any temporary status or regularization.

16. We also find force in submission of the learned counsel for the respondents that the petitioner has not even produced a chit of paper to show that on the date of coming into force of the 1989 scheme, he was being paid any emoluments as a departmental casual labour. From the statement dated 28th May, 1999 it is evident that the petitioner was employed as a departmental casual labourer only in between 1992 to 1999. Thus the stand of the respondents that he was not a casual labour on the date of coming into force of the 1989 scheme merits consideration, and has rightly been accepted by the

Tribunal. The Tribunal has rightly proceeded to conclude that since the petitioner was not on the roles of the department on 1st October, 1989, he was not entitled to benefits of regularization under the 1989 scheme.

17. We find no reason to interfere with the order passed by the Central Administrative Tribunal in T.A. No. 1 of 2011. The order of Central Administrative Tribunal passed on the review application bearing R.A. No. 11 of 2016, also does not require any interference as the review has been rejected on the ground that the petitioner by filing the review has effectively sought a rehearing of the issue, which is beyond the scope of review.

18. The writ petition is thus dismissed.

(Madhuresh Prasad, J.)

(Supratim Bhattacharya, J.)