

07.03.2025
(D/L-7)
Ct. No.4
(B.K.N.)

W.P.C.T. 156 of 2023

**Kamal Krishna Halder
Vs.
Union of India & Ors.**

Mr. Mrinal Kanti Ghosh,
Mr. Chandra Nath Sarkar
...for the Petitioner

Mr. Anil Kr. Gupta,
Mr. Yogesh Kr. Sharma
...for the Respondents

1. The petitioner having worked as a casual labour in the respondent organization was claiming regularization of his services under the scheme contained in a communication dated 6th July, 2001 by the Deputy General Manager (Administration), B.S.N.L. Calcutta Telephones. The claim of the petitioner has been rejected by the authorities by a reasoned order dated 13th September, 2004 passed in compliance of direction passed by this Court in a writ proceedings arising out of WP 8437(w) of 2004. The petitioner's claim has been rejected by the said order. The petitioner thereafter has approached the Tribunal for the relief of regularization under the 2001 scheme which has been rejected by the Tribunal. The Tribunal has taken note of the fact that the claim of the petitioner rests on the

statement of work performing by him as contained which is dated 2nd November, 1999.

2. The submission of the learned counsel is that the requirement to be fulfilled as per the letter dated 6th July, 2001 is contained in the second paragraph of the letter which reads as follows:

“As you are well aware that only full time casual labourers (not part-time) who are engaged by the department i.e. paid directly from the establishment of the department (not the contract labourers) are eligible for regularization subject to fulfilment of other conditions like engaged before 01.08.1998 (as indicated in the proforma itself) and completion of at least 240 days work service in a year (in 12 consecutive months) and currently engaged etc. As per rules and orders issued by the DOT/BSNL, H Q time to time due importance should be given while sending names of the Casual Labourers.”

3. He submits that from the statement dated 2nd November, 1999 it is apparent that the petitioner has performed work as a casual labour in a year (in 12 consecutive months from August, 1993 till July, 1994, for a total period of 253 days). The petitioner thus fulfilled the requirement of completing at least 240 days in a year as contemplated in the letter dated 6th July, 2001. The Tribunal, however, has rejected the petitioner's claim by taking note of the petitioner's status as a contractual labour through a contractor which status is subsequent to 1999.
4. Insofar as the claim for regularization is concerned it is apparent from paragraph one of the letter

dated 6th July, 2001 that the same was issued to take care of the claim of such persons as the petitioner who had been left out for regularization but otherwise fulfilled the requisite criteria in terms of paragraph two. The petitioner in between 1993 to 1999 was a casual labour and, therefore, having fulfilled the requisite 240 days in a year was entitled to be regularized and to be considered as a left out candidate in terms of the letter dated 6th July, 2001.

5. The learned counsel for the respondent on the other hand submits that as on the date of issuance of the letter by the respondent organization, had the petitioner been continuing as a casual labour then only he could have been considered as a intended beneficiary of the letter dated 6th July, 2001. He has placed reliance on the first paragraph of the said letter which reads as follows:

“In view of BSNL/HQ letter no. 269-94/98-STN-II/Pers.IV dated 19.04.2001 on the above subject stating that if there is still any casual labourer left out for regularization due to any reasons the same should be referred to BSNL/HQ urgently in prescribed performa endorsed therein for necessary action along with a certificate of IFA as well as CGM as to correctness and finality of the information and since this is the final chance for the circles to send information regarding left out Casual Labourers, if any, you are requested to send complete information in the prescribed proforma in respect of left out Casual Labours, if any, in your area. The information is required to be sent latest by 10th July, 2001 with necessary certificate of IFA & CGM.”

6. On reading of the first paragraph the intention of the letter is clear. The opening line of the said letter contains in specific terms as stipulation that the same is being issued “if there is still any casual labourer left out for regularization”. As on the date of issuance of the letter the petitioner was not still a casual labourer, left out for regularization. It is not in dispute that at least after 1999 he was not a casual labour to work through a contractor. We, therefore, find that the conclusion of the Tribunal regarding the petitioner not being entitled to benefits under the said letter requires no interference.
7. The writ petition is accordingly dismissed.

(Madhuresh Prasad, J.)

(Supratim Bhattacharya, J.)