

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A. No. 431/93

Wednesday, this the 2nd day of March, 1994

SHRI N. DHARMADAN, MEMBER (J)  
SHRI PV VENKATAKRISHNAN, MEMBER (A)

T.Radhakrishnan,  
Pokkathu House, Pandiyodu,  
Kannadi PO, Palghat. .. Applicant

By Advocate Shri M.R.Rajendran Nair.

V/s

1. The Telecom. District Manager,  
Palghat.
2. Union of India, rep. by  
Secretary, Min. of Communications,  
New Delhi. .. Respondents

By Advocate Shri K.Karthikeya Panicker, ACGSC.

ORDER

N. DHARMADAN

Applicant is a casual employee. He is aggrieved by the impugned order, Annexure-I, by which his request to enlist him as a Casual Mazdoor and to accord temporary status was rejected.

2. Applicant filed earlier OA 1589/92 for getting the same reliefs. The respondents raised the same objections in that OA. After considering the contentions raised in that case, we disposed of the application directing the third respondents therein to consider and dispose of applicant's representation after due verification of the documents produced by him. In pursuance of the direction in that judgment, the impugned order, Annexure-I, was passed. The reasons stated in the order for rejecting his request are extracted below:-

" (i) As per official records you were not recruited by this Unit at any time as a Casual Mazdoor nor were you properly made over to this Unit for approval by the Coaxial Unit.

(ii) As per official records you have worked only for 164 days in all during the period from 2.5.85 to 31.1.92, i.e. a period of 7 years. The days of engagements are not continuous and the periods of break are too long to be condoned as per rules.

(iii) All other claims of work done by you, as contained in your representation are not borne out by official records."

3. In the reply respondents have indicated that as per the evidence produced by the applicant, he worked only for a total period of 280 days as covered by Annexures-II to VII produced by the applicant. But the applicant's prior service from 1985 to 1992 had been admitted by the respondents in the reply. Hence, the applicant submitted that he is entitled to re-engagement and eligible for the grant of temporary status on the basis of the existing orders.

4. After careful consideration of the pleadings we are of the view that the impugned order cannot be sustained for the reasons stated therein are not correct regarding the prior service of the applicant. In view of the fact that applicant has commenced service from 2.5.85 and that fact had been admitted in the impugned order, we are of the view that the claim of the applicant for re-engagement deserves serious reconsideration in the light of the existing orders on the subject. Even though in the earlier judgment, Annexure-X, dated 12.11.92 we directed the respondents to dispose of the representation in accordance with law laid down by this Tribunal after due verification of the documents/official records available in the office, the same was not duly complied with by the respondents.

5. Applicant relied on the judgment of the Tribunal in OA 201/92, a case filed by similarly situated persons having prior service. In that case we have set aside the impugned order and directed the respondents to re-engage the applicant therein with all backwages. We are satisfied that that judgment applies to the facts of this case. In the light of the above judgment, we are of the view that Annexure-I order passed by the first respondent cannot be sustained. Accordingly, we quash the order and direct respondents to re-engage the applicant. They may also include the name of the applicant in the register of casual labours and issue casual labour card to him in accordance with rules if he is otherwise suitable for the same. The above direction shall be complied with within a period of four months from the date of receipt of a copy of this order.

6. In the result, this application is allowed. There will be no order as to costs.

  
( PV VENKATAKRISHNAN )

MEMBER (A)

  
N. Dharmadan  
" 2.3.94

( N.DHARMADAN )  
MEMBER (J)

v/-