

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

DATE: 12.10.93

O.A. 437/92

1. E.M. Raphael
S/o Manual, Casual Winder
Air Condition Repair Centre
Ernakulam
2. V. A. Pradeep Kumar
s/o Ayyappan, Casual Winder -do- Applicants

vs.

1. Assistant Engineer Phones
Air Condition and Power
Cocnin-11
2. General Manager Telecom,
Telephone District, Ernakulam
3. Supdt. Engineer, Electrical Wing
Telecom, Madras
4. Chief General Manager,
Telecom Kerala Circle
Thiruvananthapuram
5. Telecom Commission represented by
its Chairman, New Delhi
6. Govt. of India represented by
its Secretary, Ministry of
Communications, New Delhi

Respondents.

Mr. G. Sasidharan Chempazhanthiyil

Counsel for the
applicant

Mr. Mathews J. Nedumpara, ACGSC

Counsel for the
respondents

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THE HON'BLE MR. N. DHARMADAN JUDICIAL MEMBER

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THE HON'BLE MR. R. RANGARAJAN ADMINISTRATIVE MEMBER

JUDGMENT

MR. N. DHARMADAN JUDICIAL MEMBER

The two applicants who are working as Casual Winders in the Air Condition Repair Centre under the first respondent filed this application under section 19 of the Administrative Tribunals' Act with the following prayers:

- "i) To direct the respondents to regularise the services of the applicants by creating appropriate posts for the skilled work they have been doing in the Air Condition Maintenance Centre;
- ii) To direct the respondents to regularise the applicants with retrospective effects from the date of appointment vide Annexure-I with all consequential benefits.

- iii) Any other further reliefs that this Hon'ble Tribunal may deem fit and proper;
- iv) Award the cost of this proceedings in favour of the applicants."

2. According to applicants, the first applicant was appointed as Electrician (Winder) under the third respondent in the A.C. Maintenance Centre w.e.f. 2.9.81. Similarly, the second applicant was also appointed as Electrician (Winder) w.e.f. 23.4.84. Both of them were continuously working without any interruption in that capacity; but they were paid monthly on a daily wage basis. Annexures II and III are the orders produced in this case. The applicants further submitted that the A.C. Maintenance Centre has been taken over from the third respondent by the fourth respondent w.e.f. 15.1.85. Thereafter, the applicants were allowed to work as casual Winders and wages payable to Casual Winders were paid to the applicants. Even now, they are working in the same capacity receiving the remuneration as stated above. In spite of the fact that there are vacancies available, the applicants are not regularised in the post of Winder so as to enable them to get the regular salary of Rs. 800-1150 (the scale of pay of Winder/Wireman). Pending the original application, the first applicant was regularised as casual mazdoor in the pay scale of Rs. 750-940. but, he is discharging the duties of a Wireman even after regularisation. The claim of the second applicant for regularisation was not considered.

3. In the reply filed by the respondents, they have admitted the fact that the applicants were engaged as casual Winders but paid the wages of casual wireman. They further stated that there is no vacant post available under the respondents for regularising them as regular Wireman as claimed by the applicants.

4. The applicant filed a rejoinder producing two documents Annexure-VII and Annexure-VIII dealing with regularisation of casual workers, issued by the Department. According to the principle of regularisation as stated in those documents, casual workers who worked for two years in the Establishment is eligible for regularisation. The relevant clause is extracted below:

" X

X

X

3. It has been brought to the notice of this office by the staff unions that though irregular some of the Circles in the past had reported to recruitment on casual basis in group-C cadres such as Wireman/ Drivers/Technicians, TOA etc. and that they have been working on such posts over a long period. Regularisation of these workers has been one of the pressing demands from the staff union.

4. The regularisation of skilled/semi skilled casual employees recruited to perform duties of Group-C posts may be settled in accordance with the procedure laid down by the department of personnel and training vide their letters dated 16.9.90 referred to above. In circles where such workers are available, all the vacancies of outsiders quota may be filled up by recruitment from amongst such casual skilled/semiskilled workers.

5. Subject to the availability of vacancies in the outsiders quota, the case of regularisation of skilled semiskilled casual workers recruited to perform the duties of Group-C posts may be settled as per the instructions given above."

5. Relying on the afresaid clauses, the learned counsellor for applicants submitted that the applicants are entitled for regularisation as Wireman in view of the fact that they are working in that capacity for the last one decade. He further submitted that there are posts available under the fourth respondent for regularising the applicants.

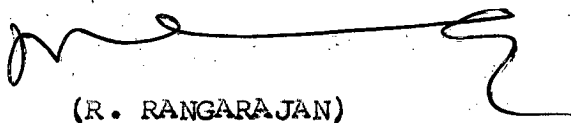
6. It is an admitted fact that the applicants are working as Winder even after 15.1.85 when the A.C. Maintenance Centre was taken over by the fourth respondent. Since the applicants are continuing in that capacity, they are also entitled to be regularised in that post. They were also paid salary of a Wireman. The applicants have asserted that 4

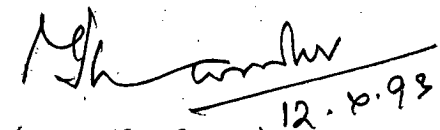
there are posts of Wireman available in the Department and since they were working as Group-C casual labours and paid the salary of Wireman, they are entitled to be regularised in the post of Wireman in the light of provisions of Annexure-VII

7. Having regard to the facts and circumstances of the case, we are of the view that the application can be disposed of directing the fourth respondent to consider the regularisation of the applicants in the post of Wireman, an equivalent post with the post held by the applicants, if vacancies are available under the fourth respondent. ^{at present}
In case ~~such vacancies are not available~~ the applicants should be allowed to continue in the present post in the A.C. Maintenance Centre in the present manner with all emoluments that is payable to a Wireman under the existing orders. We make it clear that as and when vacancy of Wireman arises, it is the responsibility of the respondents to regularise the applicants in accordance with their seniority.

8. The application is allowed to the extent indicated above.

9. There shall be no order as to costs.


(R. RANGARAJAN)
ADMINISTRATIVE MEMBER


(N. DHARMADANI)
JUDICIAL MEMBER
12.10.93

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List of Annexures

1. Annexure-II: Office Memorandum No.G -1/AEEPT/II/C/
81/274 dated 10/9.3.81
2. Annexure-III: O.M. No G-1-AEEPT/II/C/84/594 dated
10.7.84
3. Annexures-VII : Copy of DOP & Trg.No. 49014/16/89-
Estt.(C) dated 16.7.90
4. Annexure-VIII : DOT Order No. 269-34/90/STN dated nil