

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. 441/93

Wednesday, the sixteenth day of March, 1994

MR. N. DHARMADAN (J)

MR. S. KASIPANDIAN (A)

M. Krishnankutty S/o Vijayan
Cheruvila Puthen Veedu
Thazhamel, Anchal P.O.

Applicant

By Advocate Mr. M.R.Rajendran Nair

vs.

1. Chief General Manager, Telecom
Kerala Circle, Trivandrum

2. Telecom District Manager, Kollam

Respondents

3. The Assistant Engineer (Phones), Anchal.

By Advocate Mr. C.N. Radhakrishnan, ACGSC

ORDER

N. DHARMADAN (J)

Applicant is a casual employee. His request for enlistment and issue of mazdoor card considering his past service for a total period of 1255 days upto 1987 as a part-time Sweeper-cum-Watchman in the office of the third respondent was not considered favourably. Hence, he filed this application with the following prayers:

- "i) To declare that the applicant is entitled to be granted enlistment as an approved casual mazdoor and
- ii) to direct the respondents to approve the applicant as casual mazdoor and issue him approval card;
- iii) Direct the respondents to consider for granting the applicant temporary status and regularise him in his due turn;
- iv) Grant such other reliefs as may be prayed for and the Tribunal may be deem fit to grant."

2. The facts are not in dispute. The dispute is only with regard to the right of the applicant to get mazdoor card and regularisation in the light of the orders in force. Annexures A-VII, VIII and IX are instructions/OMS issued from time to time for regularising a part-time employee. The relevant portions are extracted below:

"The case of regularisation part-time labourers in the department has been discussed in the Standing Committee meeting of the P & T Board and it has been decided that the existing part-time labourers may be absorbed against regular vacancies in accordance with the instructions issued vide this office letter No. 269/47/82-STN dated 9.3.83.

It has also been decided that in future there will be no further recruitment of part-time casual mazdoors in the Department.

These instructions may be circulated to all the appointing authorities within the circle under acquittance for strict compliance"

(Annexure-VII dated 14.8.84)

" The case has been examined in the light of above orders in consultation with the Department of Personnel and AR and in view of the fact that in this Department there are large number of full time casual mazdoors available for appointment to Group-D posts and that there are no chances for regular absorption to Group-D posts of part-time casual mazdoors as at present order of preferences and it has and it has now been decided that in future as soon as a casual employee, full time or part-time, is found to be in service for requisite number of years (two or four years, as the case may be), and also fulfils other conditions for regularisation his or her name may be brought on a common single panel of the persons to be considered for regularisation.

While drawing up eligibility list for inclusion in the panel their position will be with reference to the number of days of service in the case of casual mazdoors and half of the total number of days of service in the case of part-time employees(mazdoors)."

(Annexure-VIII dated 9.3.83)

The undersigned is directed to say that as per the instructions issued by this Department from time to time, casual employees recruited before 21.3.79 in various Ministries/Departments and attached and subordinate offices of the Government of India may be regularised in Group-D posts subject to the following conditions:

- 1) A daily wage worker should have put in at least 240 days of service as such (including broken periods of service) during each of the two preceding years (4 years in the case of part-time casual workers) on the date of appointment against a regular group-D post.

- ii) A daily wage worker should be eligible in respect of maximum age limit on the date of appointment to the regular post. For this purpose, the period spent by him as daily wage worker is deducted from his actual age."

(Annexure-IX dated 13.10.83)

3. The respondents have also produced two of the O.Ms along with a memo dated 9.3.94. The O.M. dated 18th November, 1988 pertains to regularisation of casual mazdoors in the Department of Telecommunication. The relevant clause reads as follows:

- "1. Only those casual labourers/part-time casual laborers who have rendered 7 years service as on 31.3.87 i.e. who have been serving this Department since or prior to 1.4.80 are to be regularised against these posts.
- 2. The following shall be the eligibility conditions:
 - i) Full time casual labourers who have put in a service of at least 240 days per year in any two years prior to 31.3.87.
 - ii) In the case of full time casual labourers working for five days in a week in administrative offices observing 5 day week, 206 days or more per year in any two years prior to 31.3.87, after the introduction of the 5 day week scheme, will suffice.
 - iii) Part-time casual labourers should have rendered a service of at least 240 days per year in any four years prior to 31.3.87 (206 days per year for the period during which 5 day week is followed.)."

4. The next order is a clarification dated 17.12.90, the relevant portion of which reads as follows:

- "8. Can temporary status be conferred on a part-time employee?

No. They may, however, be brought on the strength of full time casual labourers, subject to availability of work and suitability. For this purpose work requirements of different types and at neighbouring units can be pooled, subject to their completing 240 days or 206 days of work on full time basis as the case may be in the preceding twelve months they may

be considered for grant of temporary status. However, part-time casual labourers will be merged with full time casual labourers will be merged with full time casual labourers /temporary mazdoors in a common single panel in accordance with the existing instructions for the purpose of regularisation of service."


5. A combined reading of the aforesaid documents together would establish that a part-time casual employee having long service in an establishment can also be absorbed against regular vacancy and he would be entitled to ^{count} half of the total service if he fulfills other conditions for grant of mazdoor card and regularisation. The applicant has established a right to be considered for regularisation particularly when it has been admitted that he has a total service of 1255 days in his credit as on 31.7.87. He continued even after 1987. According to him he is now working on quotation basis discharging service as a casual employee to the satisfaction of the respondents.

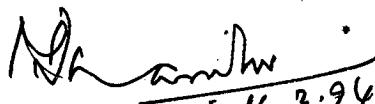
6. Having regard to the facts and circumstances we are of the view that the application can be disposed of directing the second respondent to consider the case of the applicant for grant of approval card in the light of the orders and documents referred to above for getting regular work under the respondents as and when work is available. The question of regularisation of the applicant may also be considered in accordance with his seniority and turn.

7. The aforesaid direction shall be complied with within the period of three months from the date of communication of this order.

8. The application is disposed of as above.

9. There shall be no order as to costs.


(S. KASIPANDIAN)
MEMBER (ADMINISTRATIVE)


(N. DHARMADAN)
MEMBER (JUDICIAL)

16.3.94

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