

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM

O. A. No.
~~XXXXXX~~

455

1990

DATE OF DECISION 22.3.1991

A.P.Alias Applicant (s)

Mr.K.V.Raju Advocate for the Applicant (s)

Versus

UDI rep. by Secy. to Govt., Respondent (s)
M/o of Commn., New Delhi & 4 others

Mr.George Joseph Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. S.P.Mukerji - Vice Chairman
and

The Hon'ble Mr. A.V.Haridasan - Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? *Y*
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement? *no*
4. To be circulated to all Benches of the Tribunal? *no*

JUDGEMENT

(Mr.A.V.Haridasan, Judicial Member)

The applicant in this application filed under Section 19 of the Administrative Tribunals Act has prayed for a direction to the respondents to sanction to him the financial benefits to which he is entitled as a Group 'D' official during the period from 20.1.86 to 30.12.88. The facts are simple and can be stated as follows.

2. While working as a Mazdoor on casual basis under the Divisional Engineer, Telegraphs, the applicant along with 5 others were selected for a regular appointment. *But as the select list was*

...2/-

cancelled by the General Manager, the applicant along with 5 others filed Original Application No.603/86 for a declaration that, the cancellation of the select list for Group 'D' 1983 published on 27.3.1985 and the appointments of those not included in that list was null and void, and that the applicants were entitled to be regularly appointed as Group 'D' Mazdoors on the basis of their ranking in the 1983 regular select list, and also for a direction to the respondents to issue orders of appointment with retrospective effect, and to pay them all emoluments. The above application was disposed of by this Tribunal by judgement dated 28.6.1989 with the following direction:

"In the facts and circumstances, we allow the application and set aside the order of the General Manager in so far as it cancels the select list of 27.3.85 pertaining to the applicants and direct that the applicants are entitled to get appointments as Group D regular Mazdoors on the basis of their ranking in the 1983 select list subject to their satisfying the criteria of medical fitness and suitability for a appointment. The respondents are directed to consider the applicants for appointment on the above lines and issue orders within a period of three months from the date of communication of this order. In the circumstances there will be no order as to costs."

Pursuant to this order, the General Manager, Telecom. issued Annexure-B order dated 26.9.89 which reads as follows:

"Sub:- Advancement of appointment dated of Sri.K.G.Mohanan Nair and others verdict of the Hon'ble C.A.T. Ernakulam disposing of the OA Reg:-

In pursuance of the verdict of Honorable C.A.T., Ernakulam dated 28.6.1989

disposing the O.A.No.603/86 filed by Sri.K.G.Mohanan Nair and 5 others the dates of initial appointment of the undermentioned Group D officials are hereby notionally revised to 20.1.1986.

Sl.No.	Name of the Official	Office in which working.	Date of apptt.
1.	K.G.Mohanan Nair	Optical Fibre Project, Ekm.	13.11.86
2.	W.Sidni(Sureshkumar)	TDM, Trivandrum	11.12.86
3.	M.K.Meerakutty	SBOT, Kothamangalam.	12.11.86
4.	T.E.Mani	SDOT, Kothamangalam	14.07.86
5.	A.P.Elias	SDOT, Muvattupuzha	30.12.88"

Though the initial appointment of the applicant was thus antedated to 20.1.1986, the applicant was not given the monetary benefits such as difference in salary, DA, ADA, bonus, leave, increment, etc. during the period from 20.1.86 to 30.12.88. Since this was not given to him the applicant issued a lawyer notice, Annexure-C to the respondents. As there was no response to this lawyer notice, the applicant has filed this application, praying that the respondents may be directed to pay him the monetary benefits for the period in question on the grounds that his juniors were regularly appointed to the Group 'D' post from 20.1.86, as per order No.E.17/Gr.'D'/Rectt/11/138 dated 17.1.86 and also that, as he has been performing the same duties as regular Group 'D' employee, and since his appointment has been antedated to 20.1.1986, there is no justification for denying him the monetary benefits.

3. In the reply statement filed on behalf of the respondents, it has been contended that, as the applicant


has not been actually working in the cadre of Group 'D' during the period from 20.1.86 to 30.12.88, he is not entitled to the monetary benefit for this period, and that the difference on account of his notional fixation from 30.12.1988 has been drawn and paid to the applicant.

4. We have heard the counsel on either sides and have also gone through the records produced.

5. The applicant admittedly was working as a Mazdoor, though on a casual basis and there is no case for the respondents that his duties as casual Mazdoor was different from those of regular Mazdoor in Group 'D'. Further, pursuant to the order in OA 603/86 the initial appointment of the applicant has been antedated notionally to 20.1.86. Therefore, the contention of the respondents that the applicant was not actually working in the cadre of Group 'D' between 20.1.86 and 30.12.88, and that, therefore, he is not entitled to the monetary benefits is untenable. Since his initial regular appointment has been notionally fixed to 20.1.1986, and since the applicant has been working as a Casual Mazdoor, we are of the view, that there is no justification in denying him the monetary benefits for the period from 20.1.1986 to 30.12.1988 for the reason that, he had not been regularly appointed with effect from 20.1.1986 in time for which the applicant is not responsible. Therefore, we are convinced that the applicant is entitled to the monetary benefits claimed in this application.

6. In view of what is stated in the foregoing paragraph, we allow the application and direct the respondents to pay to the applicant the difference in salary, increments and all other monetary benefits for the period between 20.1.86 and 30.12.88 within a period of two months from the date of communication of this order. There is no order as to costs.


(A.V. HARIDASAN)
JUDICIAL MEMBER


(S.P. MUKERJI)
VICE CHAIRMAN

22.3.1991

6.8.1991

CCP (51/90) in
O.A.No.455/90

SPM&AVH

Mr.KV Raju-for applicant.
Mr.George Joseph-ACGSC

The learned counsel for the respondents wishes to file reply and undertakes to do so within one week with a copy to the learned counsel for the petitioner.

List for further directions on CCP on 26th Aug.1991.

6.8.91

28.8.91
(26)

SPM & AVH

Mr.KV Raju
Mr.George Joseph

At the request of the learned counsel for the petitioner, list for further direction on 16.9.91.

28.8.91

16.9.91

SPM&AVH

Mr.KV-Raju
Mr.Krishnamurthy-for George Joseph.

The learned counsel for the original respondents appeared before us and drew our attention to the reply statement in which it has been stated that amount of arrears for the period from 20.1.86 to 30.12.88 amounting Rs. 2647/- has been paid to the petitioner. The learned counsel for the petitioner contends that this amount will hardly suffice for arrears of one year. Accordingly the learned counsel for the original respondents is directed to produce a statement indicating how the amount of Rs.2647/- was computed. List for further directions on 15.10.91.

The learned counsel for the petitioner also is directed to file corresponding statement to substantiate his claim of higher amount.

A copy of the above order may be given to the learned counsel for the respondents by hand.

16.9.91

Reply by Respondents
on 28-8-91

L.O. (Sund)
17/9/91

17/9
Amber

15-10-91
(13)

NVK & AVH

Mr KV Raju for petitioner
Mr George Joseph for respondents

The respondents have filed a statement explaining how the amount of Rs.2647/- has been computed and paid. The applicant is not satisfied and has filed a rejoinder. In the circumstances, list for final hearing on 13.11.91



15-10-91

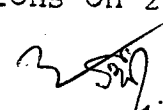
13-11-91

SPM&AVH

Kv Raju-for the petitioner
Mr.Shefiq-rep.George Joseph.

The learned counsel for the petitioner indicated that the other claims of monetary benefits are stated to be under consideration of the respondents.

List for further directions on 22nd Nov. 1991.


13.11.91


22-11-91
(24)

SPM & AVH

Mr KV Raju
Mr George Joseph, ACGSC


The learned counsel for the respondents indicated that even though the applicant has applied for leave, since the application is not in proper form, the payment of leave salary has not been ~~possible~~ ^{made}. We direct the respondents irrespective of the form in which the applicant has applied, the payment of leave salary should be granted to him within a period one month from today.

list for further direction on 23.12.91


22-11-91

✓
12/26/11/91
m BCP

1-0. issued



23.12.91


-3-

Mr.George Joseph through Mr.Eso.

NVK&AVH

None for the original applicant present today.
It is submitted on behalf of the respondents that the judgment has already been complied with. Respondents are directed to file a statement to this effect within two weeks.

List for further directions on CCP on 13.1.92.


23.12.91


13.1.92

SPM&AVH

Mr.KV Raju-for the petitioner

Mr.George Joseph.

The learned counsel for the respondents has filed a statement indicating compliance of our judgment. The learned counsel for the petitioner does not wish to pursue the CCP further. Accordingly the CCP is closed and the notice of contempt discharged.


(A.V. Haridasan)
Judicial Member


(S. P. Mukerji)
Vice Chairman

V.O
m. m. m.
m. m. m.
to closed
P.V. closed
22/1