

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 455 of 1991 ~~xxxxxx~~ ~~xxxx~~

DATE OF DECISION 31-12-91

C. Ajayakumar Applicant (s)

Shri M.R. Rajendran Nair Advocate for the Applicant (s)

Versus

The Sub Divisional Officer, Respondent (s)
Telegraphs, Quilon and 2 others

Mrs. K.B. Subhagamani, ACGSC Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. N.V. Krishnan, Member (Administrative)

The Hon'ble Mr. N. Dharmadan, Member (Judicial)

1. Whether Reporters of local papers may be allowed to see the Judgement? ⁴
2. To be referred to the Reporter or not? ²
3. Whether their Lordships wish to see the fair copy of the Judgement? ⁴
4. To be circulated to all Benches of the Tribunal? ²

JUDGEMENT

N. Dharmadan, M(J)

The applicant is challenging Annexure-I order passed by the Sub Divisional Officer to the extent of removing his name from the list of approved casual Mazdoors of the Quilon Division.

2. The case of the applicant is that he commenced ⁵ his service as ap-proved casual mazdoor from 1-3-83.

He has a casual labour card No.412/83-84. He worked

² for various days from 1983 to 1988. But he could

not continue his work in 1988 because he fell ill and was undergoing treatment. Later in 1990 when he was fit enough to continue work he approached the first respondent for re-engagement. He was not re-engaged. He also submitted representation Annexure-III with Annexure-III.A Medical Certificate. In the meantime Annexure-IV notice was put up in the Notice Board without adverting his case and the Medical Certificate which reads as follows:

"...The following casual mazdoors who are in the approved list of casual mazdoors of this Sub Division are absent for work for more than six months. Their engagement in any works in this sub division should be only with the prior approval of the undersigned. All mustering officials may be strictly instructed suitably.

<u>Sl.No.</u>	<u>Name</u>	<u>Card No.</u>
1.	xxxxx	xxxxx
2.	xxxxx	xxxxx
3.	xxxxx	xxxxx
4.	Shri C. Ayavakumar	412/83-84...

(emphasis ours)

Again the applicant submitted further representation Annexure-V on 18-7-90. This was also not considered.

In the meantime, impugned order Annexure-I has been issued removing his name from the list of approved casual mazdoors. Under these circumstances he filed this application for quashing Annexure-I and for a direction to re-engage him and consider for regularisation in accordance with law.

3. The respondents in the reply statement admitted the services of the applicant till 1988, but denied all other averments. According to them, since the applicant did not approach the respondent for job for a long period from 1988, on 25-4-89 a notice was served on the applicant for his unauthorised absence. They further submitted that after the receipt of the notice, the applicant approached the first respondent in person and represented orally that he was engaged in work in other Sub Division and hence he could not appear before the first respondent. Then he was directed to furnish the details of his work in other divisions. The applicant was informed that in case such details are not furnished within 7 days his name would be removed from the Select List. Annexure-R.(1)(a) notice was sent to the applicant which was returned with a postal endorsement which reads ^{to} ~~that~~ addressee out of station, present address not known'. Annexure R-(1)(b) is the true copy of the postal endorsement.


4. We have heard the arguments on both sides and gone through the documents. It is pertinent to note

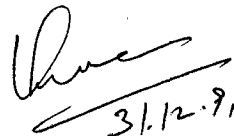
that the applicant has submitted Annexure-III representation on 20-3-90 along with a Medical Certificate Annexure.III.A on 2-3-90. Without adverting to the representation and the Medical Certificate Annexure-IV order was issued by the Sub Divisional Officer, Telegraphs, Quilon indicating that the engagement of the applicant in any works in the Sub Division of Quilon should be only with the prior approval of the Sub Divisional Officer, Quilon. After the receipt of Annexure-IV, the applicant appears to have filed Annexure-V representation on 18-7-90. This was also not considered by the first respondent. However, Annexure-I order has been issued by the Sub Divisional Officer, Quilon on 2nd July 1990 removing his name from the list of approved casual mazdoors of the Quilon Sub Division with immediate effect for his absence for more than six months. As indicated above, this was issued without adverting to Annexure-III representation and the Medical Certificate Annexure-IIIA submitted by the applicant. Under these circumstances we are persuaded to accept the argument of the learned counsel for the applicant that the

impugned order is violative of the principles of natural justice and the removal of his name from the list of approved casual mazdoors cannot be sustained.

5. Having regard to the facts and circumstances of this case, we set aside Annexure-I order in so far as the removal of the applicant's name from the list of approved casual mazdoors and remit the matter to the first respondent in the interest of justice for a reconsideration of the case of the applicant in the light of Annexure-III and V representations and Annexure IIIA Medical Certificate. We further direct the first respondent to take a decision in this matter within a period of two months from the date of receipt of the copy of the judgment.

6. The Original Application is accordingly disposed of as above. There shall be no order as to costs.


M(J) 31.12.91.


31.12.91
M(A)

31-12-91

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