

CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O.A. NO. 47 OF 1999.

Thursday this the 3rd day of February 2000.

CORAM:

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER

1. M.A. Ramadas, residing at:
Meetil House, P.O. Karumanakurissi,
Palakkad, (Part-time Mazdoor,
Regional Repair and Overhauling
Centre, Benitza Building,
Panampilly Nagar, Ernakulam.)
Department of Telecommunications,
Cochin-36.
2. R. Ramakrishnan, residing at:
Chamravalappu, Muthaliar Street,
Shornur, (Part-time Mazdoor,
Regional Repair and Overhauling
Centre, Benitza Building,
Panampilly Nagar, Ernakulam.)
Department of Telecommunications,
Cochin-36. Applicants
(By Advocate Shri M.R. Rajendran Nair)

Vs.

1. The Sub Divisional Engineer,
Regional Repair and Overhauling Centre,
(Teleprinter S), Department of
Telecommunications, Cochin-36.
2. The General Manager, Telecom,
Ernakulam, Kochi-36.
3. The Chief General Manager,
Kerala Telecommunications,
Kerala Circle, Trivandrum-33. Respondents
(By Advocate Shri Govindh K. Bharathan, SCGSC)

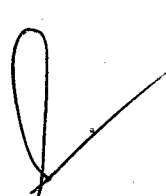
The application having been heard on 3rd February 2000,
the Tribunal on the same day delivered the following:

O R D E R

The applicants pray for the following reliefs:

- i) Quash Annexure-A16.


...2/-



- ii. To declare that the oral termination of the applicants is illegal unsustainable.
- iii. To declare that the applicants are entitled to be re-engaged and direct the respondents to re-engage applicants forthwith.
- iv. To declare that the applicants are entitled to get the wages for the period they were illegally kept out of service and direct the respondents to pay the wages to the applicants, for the period they were illegally kept out of service.
- v). To direct the respondents to consider the applicants for grant of temporary status and regularisation in their due turn and to grant them temporary status and regularisation.
- vi). Grant such other relief as may be prayed for and the Tribunal may deem fit to grant, and,
- vii) Grant the costs of this Original Application.

2. Applicants one and two were initially engaged as Casual labourers under the respondents with effect from 5.10.83 and 3.1.84 respectively. The first applicant worked upto 20.3.84 and the 2nd applicant worked for 24 days upto 30.1.84. They could not work thereafter due to health reasons. The first applicant was re-engaged with effect from 10.9.90 and the 2nd applicant was re-engaged with effect from 1.7.92 under the first respondent. After re-engagement they continued to work under the first respondent and their names were included in the seniority list of casual mazdoors as on 31.3.92.(A3). Applicants submitted representations before the first respondent for grant of temporary status, full time employment and consequential regularisation. The first respondent refused to engage them with effect from 1.8.95. Aggrieved by the same they submitted fresh representations. Since nothing turned out, they approached this Bench of the Tribunal by filing O.A. 1084/95. It was disposed of directing the 2nd respondent to pass speaking orders dated 29.8.95 were issued, rejecting the request of the applicants. Aggrieved by the same, the applicants challenged the said

...3/-



orders in O.A. 1321/95 before this Bench of the Tribunal. That O.A. was disposed of permitting the applicant to submit a representation to the 3rd respondent and directing the 3rd respondent to pass appropriate orders thereon. The impugned order dated 29.7.98 has passed in pursuance of the direction in O.A. 1321/95.

3. Respondents resist the O.A. They contend that it is only full time casual mazdoors are eligible for conferment of temporary status. The applicants initially worked as full time casual mazdoors under the Assistant Engineer. They have worked for a period of 117 days and 28 days. Subsequently, the first applicant was engaged as part time casual mazdoor and 2nd applicant was also engaged as part time casual mazdoor. Applicants are not eligible for continuous engagemnet in the department as per rules. They had to be terminated when the office under which they were working was closed down due to non-availability of work.

4. When the O.A. was taken up for hearing the learned counsel appearing for the applicants submitted that the reliefs sought for grant of temporary status and regularisation of the applicants is not pressed in this O.A.

5. A-16 is the impugned order. It says that both these applicants were re-engaged in the year 1992. It also says "at the most applicants can be considered as fresh engagement." It further says that the services of the applicants as part time casual mazdoors were dispensed with on 1.8.95 in view of winding up of work in Regional Repair and Overhauling Centre (RROC for short), that as part time employment is banned in the department they cannot be re-engaged in that capacity afresh especially their break in service between the first spell and 2nd spell was not condoned and that their services are not required in any office under Ernakulam SSA at present.

6. There is no dispute as to the winding up of RROC.


7. As per A-16, respondents say that as part time employment is banned in the department, the applicant cannot be re-engaged. The ban became effective from the year 1985. From A-3, the seniority list of casual mazdoors as on 31.3.92 which is not under dispute, it is seen that the first applicant was there on the rolls in the year 1983 and the second applicant in the year 1984. So, even before the effect of ban came into force, these two applicants were on the rolls.

8. Respondents say that the break in service between the first spell and the second spell was not condoned as far as the applicants are concerned. In A-16 it is stated that the first applicant was re-engaged as part time casual mazdoor after more than six years and the 2nd applicant after more than 8 1/2 years. The period shown there are admittedly prior to the issuance of A3. If the break in service of the applicants cannot be condoned how their names figure in A3. There is absolutely no explanation for the respondents for figuring the names of the applicants in A3 which is admittedly subsequent to the period of break mentioned in A-16. In the absence of not only valid explanation but even an explanation it is only to be taken that by the time A3 was issued respondents have condoned the break.

9. Respondents say that there is no work at present. If there is no work at present, no doubt the respondents cannot be compelled to engage the applicants. But as and when work is available in the said circumstances, they are to be re-engaged.

10. Accordingly, A-16 is quashed to the extent it says that the applicants are not entitled for re-engagement.

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11. Respondents are directed to consider the applicants' for re-engagement with reference to their position as reflected in A3 in preference to their juniors and subject to the availability of work.

12. O.A. is disposed of as above. No costs.

Dated the 3rd February 2000.



A.M. SIVADAS
JUDICIAL MEMBER

rv

List of Annexures referred to in the order:

Annexure A-16: True copy of the Order No. LC.III/ST-11-143/95 dated 29.7.'98 issued by the 3rd respondent.

Annexure-A3: True copy of seniority list of Casual Mazdoors as on 31.3.92 issued by the 1st respondent to the applicants.