

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 479/91
~~KXX No.~~

199

DATE OF DECISION 30-12-1991

CL Raju Applicant (s)

Mr. TA Rajan Advocate for the Applicant (s)

Versus

Union of India rep. by the
Secretary to Govt. of India, Respondent (s)
Ministry of Communications,
New Delhi & others.
Mr Mathew J Nedumpara, ACGSC Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. NV Krishnan, Administrative Member
and ..

The Hon'ble Mr. N Dharmadan, Judicial Member

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

JUDGEMENT

Shri NV Krishnan, A.M

The applicant states that he commenced his casual service as a casual labourer in the Foreign Post Office, Kochi on 19.12.1983 and that he was continuously engaged till 1988 and thereafter used to be engaged occasionally whenever work was available. He, however, submits that in every year he has worked for more than 240 days. The Annexure AI is the certificate given to him by the Supervisor, Foreign Post Office stating that he has worked in Group D vacancies from 19.12.83 to 4.8.90 on a daily rate basis. However, he has not been engaged after 22.11.90.

2. The applicant states that several persons who commenced service subsequent to him are given regular work as casual labourers ^{and} are now continuing ~~in the same posts~~ in the M.G. Road Post Office

and Railway Mail Service. He has also given similar information in his rejoinder subsequently filed by him about the engagement of his juniors.

3 It is in this circumstance, that he has filed this application seeking the following reliefs:

- "(i) Declare that the termination of service of the applicant with effect from 22.11.1990 is null and void.
- (ii) Direct the respondents to give work and wages to the applicant and to regularise him in service as directed in the decision reported in AIR 1987 SC 2342.
- (iii) Direct the respondents to disburse the ex-gratia allowance due to the applicant.
- (iv) Grant such other reliefs as may be prayed for and the Tribunal may deem fit to grant."

4 The respondents have filed a reply stating that it is because of the fact that regular Group D employees or ED Agents are available to do work in the Foreign Post Office that the applicant could not be engaged further from August, 1990 or November, 1990. It is also stated that the applicant was a petitioner in OP 7657 of 1988 filed in the Hon'ble High Court of Kerala and a direction was given by the High Court to engage the applicant as well as other petitioners as daily rated casual labourers on the basis of their seniority. The applicant was engaged on the basis of this direction.

5 The main contention of the respondents is that as Group D employees are available, work is not available for the applicant as a casual labourer in the Foreign Post Office. The respondents ^{u have} ~~are~~ not met the averment

made in the application that his juniors are being engaged as casual labourers in other Post Offices or Units of establishments under the Respondent-3.

6 The respondents also stated^u that the applicant's claim for regularisation would be considered in accordance with the provisions of the scheme drawn up by the Department for this purpose as also on the basis of^{his} seniority.

7 We have heard the counsel of both the parties and perused the records. There are two issues to be resolved. One is the immediate engagement of the applicant as casual labourer and the other^{u is}, regularisation of service in accordance with the scheme.

8 The contention that the applicant's juniors have been engaged as casual labourers have not been denied in the reply. Many instances have been cited. We are of the view that in so far as the engagement of casual labourer is concerned, the Respondent-3 should have ~~xxxx~~ maintained some kind of seniority list of strongest casual labourers to show who has the claim in terms of the number of days of work ~~xxx~~ engaged so that as and when work is available, the seniormost can be engaged. Accordingly, we feel that the applicant has a genuine grievance in this regard, if he is kept out and his juniors are engaged.

9 In regard to regularisation of his service, the respondents assure that the applicant's case will also be considered in his turn.


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10 We are, therefore, satisfied that a suitable direction should be issued to the respondents in this regard.

11 In the circumstance, we dispose of this application with ^a direction to the Respondent-3 to engage the applicant also as casual labourer, if it is found that any person who, in terms of number of days ^{for which he has} worked as a casual labourer is junior to the applicant, and consider his case for regularisation in accordance with law under the provisions of the scheme referred to by them.

12 There will be no order as to costs.


(N Dharmadan)
Judicial Member


(NV Krishnan)
Administrative Member

30.12.91