

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 482/2002

Dated Thursday this the 18th day of September, 2003.

C O R A M

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN

1. K.Rajendran Pillai
S/o N.Krishna Pillai
Casual Mazdoor
Bharath Sanchar Nigam Limited
Ambalathara Microwave Station.
Residing at Santhi Bhavan
Vettiyam, Peyad
Thiruvananthapuram.
2. S.Unni
S/o Sivasankara Pillai
Casual Mazdoor
BSNL, Sreekaryam Exchange
Residing at Melevilakathu Puthenveedu
Vettiyam, Peyad P.O.
Thiruvananthapuram.
3. J.S.Devakumar
S/o J.Sanjeev
Casual Mazdoor,
BSNL, Kattakkada Exchange.
Residding at Kozhitharamannadi Veedu
Kadavattaram, Neyyattinkara P.O.
Thiruvananthapuram.
4. K.Sathyadas
S/o Krishnan Nadar
Casual Mazdoor
BSNL, Sreekaryam Cables
Residing at Pazhayattinmeleputhen Veedu
Neyyattinkara
Thiruvananthapuram.
5. K.Mohanan
S/o K.Krishnan
Casual Mazdoor
BSNL, Sreekaryam Exchange
Residing at Nediyavila
Krishnavilasam Bungalow, Manjademoodu
Vattiyoorkavu P.O.
6. S.Rajamoni
S/o Y.Samuel
Casual Mazdoor
BSNL, Poojappura Exchange
Residing at Melekanjiravilakathu Manchadithattu Veedu
Thirupuram P.O., Neyyattinkara
Thiruvananthapuram.

7. P.Jose
S/o Ponnayan
Casual Mazdoor
BSNL, Attingal Exchange
Residing at Mullavidathekkrikathu Veedu
Vennyoor, Vellivila P.O.
Thiruvananthapuram.

Applicants.

(By advocate Ms.K.Indu)

Versus

1. Union of India represented by its
Secretary, Ministry of Communications
New Delhi.
2. The Chairman cum Managing Director
Bharath Sanchar Nigam Limited
Sanchar Bhavan, New Delhi.
3. The Chief General Manager
Telecom, Kerala Circle
Trivandrum.

Respondents

(By advocate Mr.N.Nagaresh)

The application having been heard on 18th September, 2003,
the Tribunal on the same day delivered the following:

ORDER

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN

The applicants, 7 in number, who claim that they had been engaged as casual labourers prior to 1989 itself, are aggrieved that they are not being granted temporary status in accordance with the Scheme for Grant of Temporary Status & Regularization to Casual Labourers, brought into effect in the department of Telecom with effect from 7.11.1989 despite the fact that they had completed 240 days of service. It is alleged in the application that when the applicants were kept out of engagement, they filed OA No.771/1992 which was disposed of directing the respondents to consider the claim of the applicants and to issue appropriate orders within a reasonable time, that during the pendency of the said application, the applicants were re-engaged on the basis of an interim order, that they continued to be engaged on piece rate basis from 1993 onwards and that they have not yet been granted the benefit of temporary status in terms of the A-4 Scheme.

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Under these circumstances, the applicants have filed this application for a declaration that they are entitled to be conferred with temporary status as per A-4 scheme and for a direction to grant all consequential benefits.

2. Respondents in their reply statement contend that after the disposal of special leave petitions by the Hon'ble Supreme Court, the claims of the casual labourers, numerous in number, for empanelment, reengagement etc. were taken up, that after consideration of the merits of the cases, a combined list was published in the office of General Manager, Telecom District, Trivandrum (Annexure R-1), copies of which were sent to all units of employment exchanges, that the claims of the applicants were rejected on the ground that the certificates produced by them were not from gazetted officers. The respondents contend that the applicants having not challenged Annexure R-1, they are not entitled to the reliefs.

3. We have heard the learned counsel on either side and have gone through the application and the reply statement and other material placed on record. That in terms of the A-4 Scheme, a casual labourer currently engaged on the date of commencement of the Scheme and who has completed 240 days of casual service would be entitled to grant of temporary status is not disputed. There is no contention for the respondents that on the date on which the scheme came into force, the applicants were not currently employed. It is evident from A-1 that the first applicant has worked for 297 days from 2.1.1985 to 31.12.85. Therefore, it is seen that the first applicant, on the date of commencement of the Scheme, had the right to be conferred with temporary status as he

was currently engaged on that date and had already completed 240 days in the year 1985. Regarding the claims of the other applicants, whether they had completed 240 days of service in one year or 'in any' of the years, there is no record available to verify the same. Since the first applicant had completed more than 240 days of casual service on 31.12.1985 and was engaged on the date the scheme came into force, I find that there is no justification in the action of the respondents to turn down his claim for grant of the benefits under the Scheme of Temporary Status & Regularization on the ground that the certificate produced by the first applicant was not issued by a gazetted officer. There is no case for the respondents that the first applicant was not engaged or the A-1 certificate was not a genuine one issued by JTO. The first applicant could have obtained the certificate from the official who engaged him and if the certificate had to be issued by a gazetted officer, the department should have directed gazetted officers to issue the certificate and a non-gazetted officer not to issue. A casual labourer cannot be faulted for not obtaining a certificate from a gazetted officer. Therefore, the rejection of the first applicant's claim for the benefits under the Scheme is unjustified and illegal. The contention of the respondents that after considering the claims of numerous casual labourers including the applicants, the claims of the applicants had been rejected on the ground that the certificates were issued by an incompetent authority and that notice was published in the office of the General Manager and in lower units and that since that has not been challenged by the applicant, the application is not maintainable also has no force at all because there is no case for the respondents that a 'copy' of Annexure R1 as an order

rejecting the claim of the applicant had been served on the applicant, when the respondents after long span of years took a decision rejecting the claim of the applicant the order should have been served on the applicant just as Annexure A5 order was served on him. The applicant, a casual labour, cannot be expected to go to the office of the respondents every day for years to see any notice has been displayed. Therefore, the contention of the respondents that the applicants are not entitled to reliefs as R1 has not been challenged by them has to be rejected.

4. In the light of what is stated above, I dispose of this application directing the respondents to grant the first applicant temporary status with effect from 1.10.1989 and to consider granting temporary status and consequential benefits to the remaining applicants with effect from the due dates, treating that the certificates produced by them and issued by JTO are valid and without insisting on production of certificates issued by gazetted officer. Orders in this regard shall be issued by a competent authority under the respondents within a period of three months from the date of receipt of a copy of this order.

Dated 18th September, 2003.


A.V. HARIDASAN
VICE CHAIRMAN

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