

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 496/92
~~XXXXXX~~

199

DATE OF DECISION 27-11-1992

PS Dinesan Applicant (s)

M/s MR Rajendran Nair Advocate for the Applicant (s)

The Assistant Engineer (Stores)
Circle Telecom Store Depot, Respondent (s)
Cochin-20 and others

Mr C Kochunni Nair, ACGSC Advocate for the Respondent (s) 1 & 2.

CORAM :

The Hon'ble Mr. SP Mukerji, Vice Chairman
and

The Hon'ble Mr. N Dharmadan, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? No
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

Shri N Dharmadan, J.M

The applicant is aggrieved by the action of the Respondent-1 in having selected and appointed the 3rd respondent, as regular industrial mazdoor, when he conducted the selection and interview on 23.3.92, without properly considering the claim of the applicant.

2 According to the applicant, he is at present working as a temporary status mazdoor in the Telecom Circle Store Depot at Ernakulam under the Respondent-1, who intimated the applicant and others by issuing Annexure-I notification that there is vacancy of a regular industrial mazdoor. Accordingly, the applicant applied for the post. He was directed to appear for the interview which was to be held on 25.2.92 at 10.30 AM as per Memo at Annexure-III dated 19.2.92. The applicant and one

Shri KG John appeared on the said date before Respondent-1, but they were informed by Annexure-IV that the interview has been postponed and they were directed to appear for the next interview to be held on 23.3.92 at 10.30 AM. on that date also the applicant alongwith others, including the Respondent-3 appeared for the interview, ^{but} Respondent-3 was selected by Respondent-1 for appointment as regular mazdoor. According to the applicant, Respondent-3 who did not apply and appear for the interview held on 25.2.92 is not entitled to appear on 23.3.92. But on account of his influence, he was also directed to appear on 23.3.92. Hence, according to applicant the selection and appointment of Respondent-3 is illegal and liable to be quashed. The applicant has prayed that since the selection of Respondent-3 as Industrial mazdoor is illegal, a direction to Respondent-1 may be issued to conduct a fresh selection in accordance with law.


3 Respondents in their reply statement stated that Respondent-3 was one of the applicants for the post of industrial mazdoor. He has submitted his application through the Controlling Officer as per letter No.E 34/91-92/152 dated 30.1.92 (Annexure RIV). Due to some omission or oversight, his application was not properly processed after verification of the testimonials and other original documents. Hence, the memo for interview was not issued to him, but such memos were issued to other candidates including the applicant directing them to appear for interview at 10.30 AM on 25.2.92. This is an omission. However, when the interview proposed to be held on the above date was postponed, Respondent-3 produced the relevant documents and testimonials for verification. Accordingly, after verification, he was also directed to appear for the interview on 23.3.92 alongwith the applicant and others. In the interview, Respondent -1 found that Respondent-3 is the most suitable person for the post as

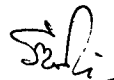
he has already worked on 3702 days, on the other hand, the applicant worked only 3412 days.

4. We have heard the counsel on either side and perused the documents. Even though, learned counsel for the applicant submitted that Respondent-3 did not appear on 25.2.92, ~~but~~⁴ he was allowed to appear for the next interview only on account of some extraneous considerations, he has not produced any documents or other materials to support this argument. On the other hand, on perusal of the files and a consideration of the statements given by the respondents in the reply statement, we are satisfied that Respondent-3 has also applied for the post in time and he is also eligible for consideration. In fact, he has a superior claim for selection as industrial mazdoor since he had put in 3702 days of service. His selection cannot be faulted.

5. In the light of the above facts and circumstances of the case we see no substance in this application and it is only to be rejected and we do so.

6. There will be no order as to costs.


(N Dharmadan) 27.11.92
Judicial Member


27.11.92
(SP Mukerji)
Vice Chairman

27-11-92