

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. NO. 517/93

Friday, this the 3rd day of June, 1994

HON'BLE SHRI N. DHARMADAN (J)
HON'BLE SHRI S.KASIPANDIAN (A)

K.A. Sulaiman,
Temporary Status Mazdoor,
O/o the Divnl. Engineer,
Co-axial Maintenance (O/D),
Vadakkekara Road,
Sudarsan Building,
Trichur - 20.

.. Applicant

By Advocate Shri Paul Varghese.

V/s

1. The Telecom District Manager,
Thrissur.
 2. Chief General Manager,
Telecommunications,
Kerala Circle,
Thirivananthapuram - 695 033.
 3. Director,
Telecom Commission,
New Delhi.
 4. Union of India rep. by its
Secretary, Min. of Communications,
New Delhi.
- .. Respondents

By Advocate Shri Kodoth Sreedharan, ACGSC.

ORDER

N. DHARMADAN (J)

The applicant is a temporary status mazdoor working in the office of the Divisional Engineer, Coaxial Maintenance, Trichur, under the first respondent. He is aggrieved by the denial of counting his 'boy's service' for the purpose of regularisation in service in the light of Annexure-V proceedings of the Assistant Director General dated 3.1.92.

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2. Annexure-V provides for regularisation of casual mazdoors having temporary status. Conditions for regularisation of temporary status mazdoor as contained in Annexure-V are as follows:-

- "1. The regularisation of "Temporary Status Mazddors" will be done in a phased manner. In the first instance "Temporary Status Mazdoors" who have put in 10 years service or more as on 31.12.91, will be considered for regularisation. Thereafter the regularisation will be done on year to year basis at the end of each financial year, i.e. "Temporary Status Mazdoors" with ten years service as on 31st March of each year.
2. The eligibility conditions for consideration will be as under:-
 1. "Temporary Status Mazdoors" who have put in a service of 240 days per year (206 days or more per year in respect of those working in offices where 5 days week is observed), in any three years prior to the date from which they are proposed to be absorbed and have been on rolls of the Department during the preceding one year, i.e. since January 1991.
3. Regularisation should be done from the common seniority list prepared by the Recruiting units."

Regularisation according to Annexure-V has to be done in a phased manner.

3. According to the applicant, he satisfied all the aforesaid conditions. He was initially engaged as casual mazdoor on 24.10.81 and granted temporary status w.e.f. 1.10.89. He has completed ten years of service as on 31.12.1991. But the DPC convened for considering candidates for regular absorption to Group-D post, did not recommend the case of the applicant in the first phase. However, ultimately he was regularised at a later stage in the third phase. The applicant is not satisfied with the decision to regularise him in the third phase.

4. The respondents have relied on Annexures-R1 and R3 proceedings and contended that 'boy's service' is to be excluded while considering regularisation of temporary status mazdoors in the light of the guidelines in Annexure-V. We are not inclined to accept the argument.

Annexure-R1 is only a clarification of the guidelines for regularisation of casual mazdoors with minimum service of seven years. The relevant clause reads as follows:-

"(iv) whether casual labourers engaged prior to 1.4.80, who did not fulfil the conditions regarding minimum age at the time of initial recruitment can be considered for regularisation ?

(iv) The period of service of casual labourers who did not fulfil the condition pertaining to the minimum age at the time of engagement will be counted for eligibility and seniority purposes, ignoring the period of service rendered before the labourers attained the minimum age. "

It refers to regularisation of casual mazdoors joined prior to 1.4.80. The applicant having been engaged on 24.10.81 and granted temporary status w.e.f. 1.10.89, this clarification cannot be pressed into service for denying the benefits of regularisation in the first phase to the applicant. Similarly, Annexure-R3 letter issued on 5.8.92 regarding the regularisation of temporary status casual mazdoors, who have completed ten years of service as on 31.12.91, 31.3.92 etc. is also not relevant for deciding the issue arising for consideration in this case, which pertains to the counting of 'boy's service' for grant of regularisation of temporary status casual mazdoors. In this view, both Annexures-R1 and R3 are not helpful for deciding the issue raised in this case.

5. Applicant has placed strong reliance on Annexure-X proceedings issued by the Chief General Manager, Telecom, Tamil Nadu Circle, Madras, No.RET/84-3/91 dated 9.6.92. The relevant clause is extracted below:-

<u>"S. No.</u>	<u>Point raised</u>	<u>Clarification</u>
1.	Whether Boy Service can be taken into account?	As per DOT's Lr. No.269-29/87-STN-Vol.I dt. 30.8.89, point No.(iv) boy service has to be taken into account for the purpose of eligibility. "

Under the aforesaid letter, the 'boy's service' can be counted for considering eligibility and grant of regularisation to casual labourers in Group-D post. Going by the aforesaid provisions, the applicant is fully eligible for regularisation in the first phase itself along with others. Respondents have not given any explanation for taking a different stand as far as Tamil Nadu Region is concerned for counting the 'boy's service'. No difference between the 'boy's service' in Tamil Nadu and Kerala or other states has been pointed out. If 'Boy's service' in Tamil Nadu can be counted for regularising temporary status casual mazdoor, same principle would equally apply to Kerala also for this is an all India service having no separate treatment permissible based on the conditions in each state.

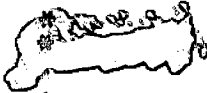
6. This Tribunal considered identical issue in S. Muraleedharan and others vs. General Manager, Telecom, Ernakulam, O.A. No.1098/92. After considering similar contentions, we have held as follows:-

"6. Admittedly, the applicants are temporary status casual mazdoors who have rendered more than ten years of service. Clause 1 extracted above does not debar the inclusion of casual service prior to attaining majority. Since there is no bar as contended by the learned counsel for respondents for taking into account the prior service of the casual mazdoors before attaining the majority, there is no justification in denying the benefit of counting of total casual service of the employees who have been employed in continuous service even before he attained majority."

The contention of the Department that 'boy's service' has to be excluded based on clarification referred to therein was also considered and negatived by us in O.A.1098/92.

7. We follow the earlier judgment and allow the O.A. to the extent of declaring that the applicant is eligible for regularisation in the first phase as contemplated in Annexure-V with effect from the date of regularisation of

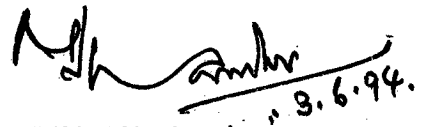
*correction
*carried out by
the Registry
as per order
dated 29-6-94
in MA 877/94

his  junior as shown in Annexure-IV gradation list read with Annexure-VI giving appropriate positions in the list of temporary status mazdoors who have enrolled prior to 31.12.1981 and completed ten years of service as on 31.12.1991. This direction shall be complied with within a period of four months from the date of receipt of a copy of this order.

8. The application is allowed as above. There will be no order as to costs.



(S.KASIPANDIAN)
MEMBER (A)

 3.6.94.

(N. DHARMADAN)
MEMBER (J)

v/-