

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 526 of 1997

Wednesday, this the 20th day of August, 1997

CORAM

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

1. Sudha T,
W/o Sankaran,
Part-time Sweeper/Casual Labourer,
Mannar Telephone Exchange, Mannar
residing at Varotttil,
Kurattussery, Mannar PO. .. Applicant

By Advocate Mr. MR Rajendran Nair

Versus

1. The Sub Divisional Officer,
Telegraphs, Mavelikkara.
2. The Telecom District Manager,
Alleppey. .. Respondents

By Advocate Mr. Varghese P Thomas, ACGSC

The application having been heard on 20-8-1997, the
Tribunal on the same day delivered the following:

O R D E R

The applicant seeks for a declaration that the part-time service rendered by her is liable to be counted for conferring temporary status and for a direction to the respondents to confer temporary status to her with effect from 29-11-1989 and also for a declaration that she is liable to be treated at par with temporary Group D employee with effect from 29-11-1992 with all consequential benefits.

2. The applicant is engaged as a part time Sweeper in Mannar Telephone Exchange from January 1988 onwards. She

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was initially engaged for 2 hours work per day and payment was made as per ACG-17 bills. The applicant says that this practice continued for six years and thereafter payments are made after obtaining her signature on blank papers. The applicant also says that she has rendered more than 240 days of work in every year of her engagement. The applicant ^{further} says that she submitted A-2 representation dated 27-2-1997 to the 1st respondent requesting for conferment of temporary status with effect from 29-11-1989 and the 1st respondent has not passed any order on the same.

3. The respondents say that the applicant is working on a contract basis only.

4. According to respondents, in similar matters the Apex Court has declared by its order dated 2-4-1997 in Civil Appeal No. 2606 of 1997 that the scheme for conferring temporary status to full time casual labourers are not applicable to part time casual labourers. A copy of the said order was made available before me by the learned counsel for the applicant. There it has been held that the scheme covers only those casual workers who are engaged full time for eight working hours, and the benefits under the scheme are conferred on those casual workers who are so covered. It is so held by the Apex Court relating to Clauses 1 and 2 of the Scheme. The Scheme referred to there is the scheme prepared by the Department of Posts. It is the scheme dated 12-4-1991. The scheme applicable in this OA is the scheme of the Department of Telecommunications, 1989, granting temporary status and regularisation


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to casual labourers. In the scheme of the Department of Telecommunications which is the scheme applicable in this OA, it is seen that a clause, as identical to the clause 2 of the scheme referred to in the order of the Apex Court, is absent. That being so, the stand taken by the respondents based on the order in Civil Appeal No. 2606 of 1997 cannot be accepted.

5. As per paragraph 5 of the Scheme of the Department of Telecommunications, 1989, temporary status would be conferred on all the casual labourers currently employed and who have rendered a continuous service of at least one year, out of which they must have been engaged on work for a period of 240 days (206 days in the case of offices observing five-day week). As per letter dated 17th of October, 1990 of the Department of Telecom, a clarification is issued to the effect that temporary status cannot be conferred on a part time casual employee. Paragraph 5 of the scheme of the Department of Telecom does not make any difference between casual labourer and part time casual labourer. Casual labourer means and includes those who are part time casual labourers also. There is no necessity to restrict the meaning of casual labourer excluding part time casual labourer. The scope of the scheme cannot be restricted by an administrative order like the order contained in the letter dated 17th of October, 1990. It will not be legally permissible to restrict or enlarge the scope of the scheme by virtue of an administrative order.

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6. Respondents say that the applicant is working on a contract basis. The respondents have not specified whether it is a contract of service or a contract for service.

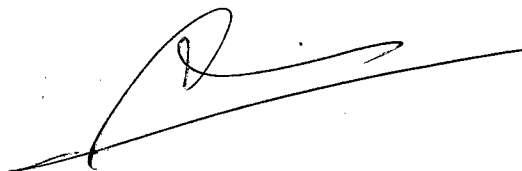
There is a difference between a contract of service and a contract for service. From the reply statement it is not known what is the stand of the respondents as to the position of the applicant.

7. The learned counsel for the applicant during the course of the argument submitted that the applicant may be permitted to submit a comprehensive representation to the 2nd respondent for redressal of her grievance. Learned counsel appearing for the respondents submitted that there is no objection for adopting such a course.

8. Accordingly, the applicant is permitted to submit a comprehensive representation to the 2nd respondent through proper channel within fifteen days from today. If such a representation is received, the 2nd respondent shall consider the same and pass speaking orders considering all aspects bearing in mind the observations made in this order and in accordance with law, within a period of two months from the date of receipt of the representation.

9. Original Application is disposed of as above. No costs.

Dated the 20th of August, 1997



A.M. SIVADAS
JUDICIAL MEMBER

LIST OF ANNEXURE

Annexure A2: Representation dated 27.2.1997
submitted by the applicant to
the respondent.

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