

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.527/2001.

Monday this the 4th day of March 2002.

CORAM:

HON'BLE MR.T.N.T.NAYAR, ADMINISTRATIVE MEMBER

C.K.K.Nallakoya,
Cheriyakkannal House,
Androth Island,
Union Territory of Lakshadweep,
Labourer (Helper for Lineman) in the Electrical
Sub Division, Minicoy. Applicant

(By Advocate Shri P.V.Baby)

Vs.

1. Union of India, represented by the
Secretary to the Home Affairs Department,
New Delhi.
2. The Administrator, Union Territory of
Lakshadweep, Kavaratti.
3. The Executive Engineer, Electricity
Department, Kavaratti.
4. Asst. Engineer, Electrical Sub Division,
Minicoy.
5. The Special Officer,
Village (Dweep) Panchayat,
Minicoy. Respondents

(By Advocate Shri P.R.Ramachandra Menon (R.1-5))

The application having been heard on 4th March 2002
the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR.T.N.T.NAYAR, ADMINISTRATIVE MEMBER

The applicant in this case is aggrieved by the fact that the 4th respondent, Assistant Engineer, Electrical Sub Division, Minicoy and the 3rd respondent, the Executive Engineer, Electricity Department, Kavaratti refused to engage him in casual employment he claims to have been so far engaged for. The applicant claims to have been engaged by the Island Council, Minicoy as a Casual Labourer w.e.f.21.1.1992. According to the

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applicant, A-1 certificate, issued by the Special Officer, Village (Dweep) Panchayat, Minicoy Island, would clearly indicate that from 21.1.92 to 27.6.94, he was deputed to work in the Electrical Works, that thereafter between 28.6.94 to 31.8.94 he was engaged in the Anti sea erosion work under the Island Council and still later from 1.9.94 till 2.1.96 he was again on deputation to Electrical Works. It is the case of the applicant that, after that he has been continuously working with the Electrical Department. These facts are not effectively denied or countered by the respondents, according to the applicant. However, when the applicant requested for regularisation by making a representation on 30.5.2001 seeking the benefit of the Government of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel & Training O.M.No.51016/2/90-Estt(C) dated 10.9.93 (A2), with particular reference to grant of temporary status, the respondents without taking any further action dropped the applicant totally from further engagement with effect from the very next date i.e. on 1.6.2001. The applicant seeks the following reliefs:

- i). To declare that the applicant is entitled for temporary status and regularisation as labourer under the respondents, under whom the applicant was working;
- ii) To direct respondents to pay to the applicant wages of regular employee from the date on which the applicant completed 240 days of service;
- iii) To direct that the applicant should be reinstated in service under the respondents forthwith"

2. By interim order dated 11.7.2001, this Tribunal has directed the respondents to give the applicant casual employment in preference to persons with shorter length of casual service than him till the disposal of this O.A.

3. In their reply statement the respondents have resisted the O.A. by stating that the applicant was not a casual employee under the administration but that he was engaged as a casual labourer under the erstwhile Island Council succeeded by Village(Dweep) Panchayat and that the arrangement had been made without any approval of the Administration. The casual wage earners employed by the local self Government agencies could not be regularised in terms of the A-2 ~~the~~ Office Memorandum since the said O.M. is applicable only to those Casual Labourers who are recruited in Government Departments or Offices. It does not apply to local self-government bodies or autonomous bodies like the Island Council or Panchayat. It is also revealed in the reply statement that a large number of persons were engaged under the District Rural Development Agencies (DRDA for short) from amongst the local people in order to provide some relief to the otherwise unemployed men and women, and people who got the benefit of such engagement could not be treated on a par with casual labourers who came to be engaged under the Administration. However, individuals who are similarly situated like the applicant deputed from the Island Council have not been given any regular employment in any of the departments under the Administration, the respondents would plead.

4. I have heard Shri P.V.Baby, learned counsel for the applicant and Shri P.R.Ramachandra Menon, learned counsel for the respondents. According to the learned counsel of the applicant, the engagement of the applicant as Casual Labourer for several years, i.e. more than 9 years, cannot be denied, and it has not been denied by the respondents. A-1 certificate supports the applicant's claim that his engagement as casual labourer was done by the Island Council and that, he was engaged in work which was incidental to the administration's activity. It is therefore,

only fair to allow the applicant the benefit of the O.M dated 10.9.1993 (A2). It is also pointed out by the learned counsel that, instead of examining the applicant's A-3 representation judiciously, the respondents have hastily proceeded to drop him from any further engagement adducing no reason whatsoever. Learned counsel of the applicant has further stated that in spite of a clear direction from this Tribunal that the applicant should be engaged in preference to persons with lesser length of Casual Service, the said direction has not been complied with. Shri P.R.Ramachandra Menon, learned counsel for the respondents would contend on the otherhand that the respondents were not accountable for the engagement or non-engagement of the applicant that the applicant was engaged in casual employment by the then Island Council and subsequently he might have continued under the Village (Dweep) Panchayat with the permission of the local Central Government Authorities. This would not, in any manner, legally fasten any liability on the Administration to regularise such engagement and therefore, the administrative and financial liability arising therefrom cannot visit upon the Administration, learned counsel would urge. In this connection, my attention has been invited to an order of this Tribunal in O.A.218/99 and O.A.1297/98 dated 14.8.01 in which identical matters were considered in greater detail by this Tribunal. It is also pointed out that the applicant in O.A. 1297/98 took up the matter further before the Hon'ble High Court by filing an O.P. and that the same has been rejected by the Hon'ble High Court at the admission stage itself. According to the counsel, this Tribunal accepting the Respondents' stand held that, since neither the Local Self Government Authority nor the applicant has shown how the post created/retained in addition to those sanctioned by the Administration, could be considered regular, the Administration of the Union Territory of Lakshadweep would

have no accountability as regards the matter of regularisation. Learned counsel for the respondents would submit in this connection that, the case of the applicants in the order cited above was, in a sense, slightly stronger, in as much as some of them were engaged as Typists, Clerical Assistants, Peons etc. Since the engagement of the applicant in this case was not against any post sanctioned by the Administration, nor was there any approval in that regard, the Administration could not be directed to bear the consequences thereof, he would contend. With regard to the representation submitted by the applicant on 30.5.01, it is submitted by the learned counsel that the same was received by the respondents on 6.6.2001 and therefore, it could not be alleged that the non-engagement was on account of the applicant's representation and in any case, Administration had no hand in either appointing or regularizing the persons similarly engaged by the Local Self Government, it is urged.

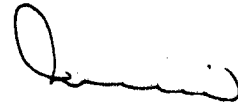
5. On a consideration of the material on record and having regard to the contentions put forward by the counsel for the applicant and the respondents, I find that, although A-1 certificate shows that the applicant was engaged to do work in the Electrical Section and Anti sea erosion work by the Island Council authorities, there is no evidentiary material to support that any such engagement was sanctioned or approved by the Administration. Unless the engagement was authorised/approved or sanctioned by the Administration and supported by proper budgetary grant, engagement of different persons in different areas of work by the local Self Government Authorities cannot at a later stage, put an administrative and financial burden on the Administration. This matter has received extensive consideration by this Tribunal in the decisions cited earlier in O.A. 218/99 and 1297/98. The persons who might have got some benefit by

getting engagement under the Wage Employment Programmes as a poverty alleviation measure under the District Rural Development Agency (DRDA for short) or those who were fortunate to be considered by the local Self Government Authorities like the Island Council followed by the Village (Dweep) Panchayat cannot and should not have any legal locus-standi to press any claim against the Administration in matters of regularisation, as envisaged under Annexures R-2 /A2 Office Memoranda.

6. In the light of the findings in the foregoing paragraphs, I am unable to grant any relief sought for in this O.A., and I proceed to dismiss the O.A.

7. The O.A. stands dismissed. The interim order is vacated. No order as to costs.

Dated the 4th March, 2002.



T.N.T. NAYAR
ADMINISTRATIVE MEMBER

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A P P E N D I X

Applicant's Annexures :

1. A-1 : True photostat copy of the Experience Certificate issued by the 5th respondent on 2.1.96.
2. A-2 : True photostat copy of the Office Memorandum No.51016/2/90-Estt(C) dated 10.9.93 issued by the Govt. of India.
3. A-3 : True photostat copy of the representation submitted to the respondents 3 to 5 by the applicant under R/P with Ack. due on 30.5.2001.

Respondents' Annexures :

1. R-1 : True copy of the O.M.No.49014/2/86-Estt dtd.7-6-88 issued by the Govt. of India.
2. R-2 : True copy of Message F.No.20/2/DAP/Part/95-96-DRDA(L)/17 dated.2.2.96 issued by the Project Officer, DRDA, Lakshadweep.

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