

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 542 of 1991
T. A. No.

DATE OF DECISION 5-2-1992

Mr N Raghunathan Applicant (s)

Mr MR Rajendran Nair Advocate for the Applicant (s)

Versus

Sub Divisional Officer, Telegraphs, Alappuzha & 3 others Respondent (s)

Mr Mathews J Nedumpara, ACGSC Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. SP MUKERJI, VICE CHAIRMAN

&

The Hon'ble Mr. AV HARIDASAN, 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

(Hon'ble Shri AV Haridasan, J.M.)

The applicant who had been working as Casual Mazdoor under the Sub Divisional Officer, Mavelikkara during 1978 claims re-engagement as Casual Mazdoor on the strength of his past services. Since his request for re-engagement was not ~~acceded~~ ^{granted} to, he has filed this application.

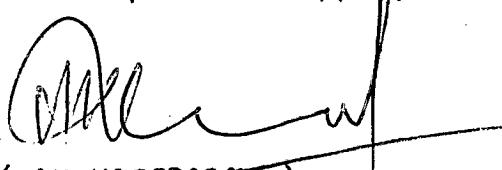
2. The respondents have in the reply statement contended that the application is hopelessly barred by limitation. It is also contended that there is no record to verify whether he had rendered any casual service at all. In order to substantiate his ^{that} case/he had rendered casual service, the applicant sought permission

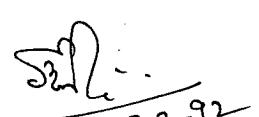
to summon Shri Sivasankara Pillai who was Lineman, Mavelikkara at the relevant time. Shri Sivasankara Pillai is presently working as Sub Inspector, Phones, Mavelikkara. In response to the summons issued, he appeared and produced a copy of the LTI Register maintained by him in regard to the Casual Mazdoor engaged during the period when he was working as Lineman. The copy of the LTI Register produced by him was signed by all Mazdoors and himself and this according to him, was retained sending the original to the Divisional Engineer, Telephones and J.E.(Phones), Mavelikkara. Shri Sivasankara Pillai was examined by us as witness. He has tendered evidence that during 1978, the applicant was engaged as a Casual Mazdoor in connection with the work of Telephone Department there. The witness was cross-examined. Going through the testimony of the witness, we could not find any reason to disbelieve him. Hence from the evidence it is established that the applicant was engaged in connection with the work of the Telephone Department in the year 1978.

3. Now the question whether on the strength of casual service rendered more than a decade ago, the applicant is entitled to claim any relief. Going by the strict rule of limitation if a person has not made any claim for such a long time, he cannot be allowed to lay a claim. But a distinction has to be made in the case of Casual Mazdoors who were engaged at the pleasure of the officers concerned. There is no case for the respondents that the casual service of the applicant had at

any time been terminated. A Casual Mazdoor gets work only as and when work was given to him. From the very nature of the employment, casual service cannot be considered as a continuous service because work will be assigned as and when work is available. There have been several cases before this Bench in which Casual Mazdoors who had rendered service similarly like the applicant a decade ago and had come forward with applications for re-engagement. In this case, though the applicant has claimed backwages, the learned counsel restricted the claim only for re-engagement with bottom seniority, ^{if} work is available and if fresh hands are engaged, ^{if} we find no reason why the applicant who has worked as a Casual Labour earlier should not be preferred to rank outsiders. Consistent with the view taken by this Bench in cases of this nature, we are of the view that the interest of justice demands a similar relief ^{to} be given to the applicant also.

4. In the above circumstances, we dispose of this application with a direction to the respondents to enlist the applicant in the list of casual mazdoors with bottom seniority and to consider his re-engagement in preference to fresh hands on the basis of his earlier casual service. The question of his regularisation in service, if there is such a scheme in the Department should be taken up at the appropriate time. There is no order as to costs.


(AV HARIDASAN)
JUDICIAL MEMBER


(SP MUKERJI)
VICE CHAIRMAN

5-2-1992

trs