

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.552/03

Monday this the 19th day of January 2004

C O R A M :

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR.T.N.T.NAYAR, ADMINISTRATIVE MEMBER

S.Nelson
Group D (Non-test Category),
Office of the Director of Accounts
(Postal) Kerala Circle,
Trivandrum.

Applicant

(By Advocate Mr.Thomas Mathew)

Versus

1. Senior Accounts Officer
(Administration) Office of the
Director of Accounts (Postal)
Trivandrum.
2. Director of Accounts (Postal)
Kerala Circle, Trivandrum.
3. Chief Post Master General,
Kerala Circle, Trivandrum.
4. Director General,
Department of Posts,
New Delhi.
5. Union of India, represented by
its Secretary, Department of Posts,
New Delhi.

Respondents

(By Advocate Mr.K.R.Rajkumar,ACGSC)

This application having been heard on 19th January 2004
the Tribunal on the same day delivered the following :


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O R D E R

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

The applicant who commenced his career as a Casual Labour under Railway Mail Service, Trivandrum Division in the year 1982 was conferred temporary status with effect from 29.11.1989, On expiry of a period of three years after attaining the temporary status, the applicant was treated on par with temporary Group D and he was granted annual increments. While he was drawing a basic pay of Rs.3020/- he was regularised on Group D post with effect from 14.1.2003 by Annexure A-2 order dated 17.1.2003 fixing his pay in the minimum of the scale. Aggrieved by the reduction of pay on regularisation the applicant submitted a representation in reply to which the applicant received Annexure A-8 order dated 29.5.2003 informing him that Directorate considered it not appropriate to extend the benefit of protection of pay in his case. Aggrieved the applicant has filed this application. It has been stated in the application that the Tribunal in O.A.1373/99 following the ruling of the Hyderabad Bench of the Tribunal in O.A.1051/98 has held that on regularisation on Group D post the increment drawn by the casual labour with temporary status treated as temporary government servant should be taken into account and that challenge to this before the Hon'ble High Court of Kerala in O.P.13244/01 has been dismissed by the Hon'ble High Court of Kerala. The applicant therefore has prayed that the impugned order be set aside




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declaring that the fixation of pay of applicant at Rs.2550/- on regularisation excluding the increment drawn by him is arbitrary, illegal and unfair and for a direction to respondents to refix the pay of the applicant and to make available to him all consequential benefits.

2. Respondents resist the claim of the applicant. They contend that the applicant on regular appointment to Group D is entitled to get his pay only at the beginning of the scale and rely on the instructions issued by the Government of India Ministry of P & G, Department of Personnel & Training dated 29.1.1998 (Annexure R-1) wherein it has been stated that on regularisation of casual labour with temporary status pay should be fixed at the minimum of the payscale.

3. We have carefully gone through the pleadings and materials brought on record and have heard the learned counsel on either side. The Hyderabad Bench of the Tribunal in O.A.1051/98 after an analysis of the relevant rules and instructions on the subject held that reduction of the pay of the casual labour treated as temporary on his regular appointment is illegal and arbitrary. This is followed by the order of this Tribunal in O.A.1373/99. Although the respondents carried the matter before the Hon'ble High Court of Kerala, the Hon'ble High Court of Kerala has dismissed the O.P.13244/01 vide its judgement dated 4.1.2002. Since the matter has been settled by the ruling of the Bench which has been upheld by the Hon'ble High Court of Kerala, we do



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not find any reason not to follow the above ruling. Hence the contentions raised by the respondents are overruled. The impugned orders Annexure A-2 and Annexure A-8 are set aside. We declare that the fixation of pay of the applicant on his regular appointment on Group D at Rs.2550/- is arbitrary and illegal. We also direct the respondents to fix the pay of the applicant with effect from 14.1.2003 protecting the increment drawn by him as temporary status casual labourer treated as temporary government servant and the last pay drawn by him at Rs.3020/- and issue necessary orders forthwith. We also direct that the monetary benefits flowing therefrom shall be made available to the applicant within a period of two months from the date of receipt of a copy of this order.



T.N.T.NAYAR
ADMINISTRATIVE MEMBER

(asp)



A.V. HARIDASAN
VICE CHAIRMAN