

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A.No.560/98

Tuesday, this the 21st day of April, 1998.

CORAM:

HON'BLE MR AV HARIDASAN, VICE CHAIRMAN

HON'BLE MR SK GHOSAL, ADMINISTRATIVE MEMBER

N.P.Daniel,
Driver,
Office of the Sub Divisional Engineer(Phones),
Telephone Exchange Building,
Perumbavoor. - Applicant

By Advocate Mr G Sasidharan Chempazhanthiyil

vs

1. General Manager,
Telecom,
Telecom District,
Ernakulam.
2. Chief General Manager,
Kerala Telecom Circle,
Thiruvananthapuram.
3. Union of India represented by
its Secretary,
Ministry of Communication,
New Delhi. - Respondents

By Advocate Mr George Joseph, ACGSC

The application having been heard on 21.4.98, the
Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR AV HARIDASAN, VICE CHAIRMAN

The applicant commenced his service as a Casual Driver under the respondents on 9.7.82. He was considered for selection and appointment as a regular Driver against vacancies which arose in the year 1986. He was so considered only on the basis of an interim order of the Tribunal in O.A.178/87 as the respondents

considered him to be over aged at the time of selection. Ultimately, O.A.178/87 was dismissed. The applicant approached the Hon'ble Supreme Court in S.L.P.10425/88. The Hon'ble Supreme Court by an order dated 7.8.89 A-1 directed the respondents that in the special facts and circumstances of the case, as a special dispensation, the services of the applicant shall be regularised if necessary by relaxing the upper age limit in his case. In obedience to the order of the Hon'ble Supreme Court, by order dated 27.7.90 the first respondent appointed the applicant as a temporary regular Driver in scale Rs.950-1500 with effect from 27.7.90 in view of the letter of the DOT dated 6.7.90 approving the relaxation. The applicant found that a person who was junior to him in service i.e., Shri PJ Francis was appointed as Driver with effect from 16.10.87 on the basis of an order in O.A.395/92. Shri Francis was No.9 in the panel prepared by the Selection Committee while the applicant was at Sl.No.8. The applicant felt that he was entitled to be regularised at least with effect from the date Shri Francis was regularised and therefore he made a representation. Simultaneously, not being satisfied with the order of his appointment as a temporary regular Driver with effect from 27.7.90, the applicant approached the Hon'ble Supreme Court with the Contempt Petition No.1/93. The Hon'ble Supreme Court after hearing the learned counsel and on a perusal of the order dated 27.7.90 whereby the applicant was appointed in relaxation of the age limit, found that the Court's orders had been complied with in full and nothing further remained to be done. Accordingly the Hon'ble Supreme Court disposed of the Contempt Petition. On the representation made by the applicant for retrospective regularisation with effect from the date on which Shri Francis was regularised, the first respondent rejected his claim on the ground that the directions contained in Hon'ble Supreme Court's order was scrupulously complied with, and that

the applicant could not compare himself with Shri Francis who was regularised with effect from 16.10.87 on the basis of the order of the Tribunal in O.A.395/92. The first respondent later issued an order dated 23.2.98 incorporating a correction. It was aggrieved by the rejection of his claim for retrospective regularisation with effect from 16.10.87 that the applicant has filed this application under Section 19 of the Administrative Tribunals Act. His claim is that as he has been working continuously with effect from 9.7.82 and was placed in the panel for selection towards the vacancy which arose in the year 1986, the respondents should have regularised his services with effect from 16.10.87 the date on which a person who was placed below him in the panel was regularised.

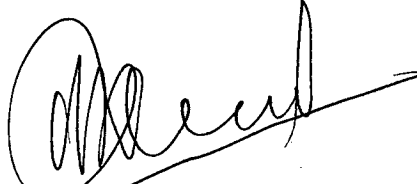
2. We have very carefully perused the application and the other materials appended thereto and have heard the learned counsel on either side.

3. The claim of the applicant for parity in the matter of regularisation with Shri Francis is unfounded because Shri Francis was directed to be regularised with effect from 16.10.87 in the final order of the Tribunal in O.A.395/92. The ground for such a direction in O.A.395/92 was different from the ground taken by the applicant in this O.A. The applicant therefore cannot reasonably compare his status with that of Shri Francis. The applicant was not selected for appointment in 1987 because at that time as per the rules and instructions, he could not be appointed being over aged. His application claiming regular appointment was dismissed by the Tribunal. The Hon'ble Supreme Court has taking into account the special circumstances of the case as a special dispensation, directed that the services of the applicant should be regularised if necessary by relaxing the upper

age limit. There was no direction in the order of the Hon'ble Supreme Court at A-1 that the services of the applicant should be regularised with effect from any particular date. In obedience to the directions of the Hon'ble Supreme Court, the competent authority approved the relaxation of age and without delay appointed the applicant as a Driver on regular basis with effect from 27.7.90. This order passed by the respondents appointing the applicant as a regular Driver with effect from 27.7.90 was scrutinised by the Hon'ble Supreme Court in Contempt Petition No.1/93. The Hon'ble Supreme Court found that the order of the Court had been fully complied with and nothing remained to be done. Under these circumstances, we consider that the applicant does not have any legitimate grievance which is required to be adjudicated and decided. The application is therefore rejected under Section 19(3) of the Administrative Tribunals Act. No costs.

Dated, the 21st April, 1998.


(SK GHOSAL)
ADMINISTRATIVE MEMBER


(AV HARIDASAN)
VICE CHAIRMAN

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