

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. NO. 562/09

Dated this the 28th day of May, 2010

C O R A M

HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

M.R.. Krishnankutty
Temporary status Group-D
Sub Record office, Kottayam.

Applicant

By Advocate Mr.Siby J. Monippally

Vs

- 1 Union of India represented by
Chief Postmaster General
Kerala, Trivandrum
- 2 The Senior Superintendent
Railway Mail Services
Trivandrum Division,
Trivandrum

Respondents.

By Advocate Mr. Sunil Jacob Jose, SCGSC.

The Application having been heard on 13.4.2010 the Tribunal delivered the following:

O R D E R

HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

The applicant, a temporary status Group-D employee, belonging to Scheduled Caste community, is seeking regularisation in service w.e.f the date of grant of temporary status.

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The applicant entered services of Railway Mail Service as a Part Time Casual Labour on 26.7.1984, he was granted temporary status on 25.4.1999. When the temporary status granted was withdrawn, it was challenged before the Tribunal through O.A. 228/2000 which was allowed on the basis of which he was granted temporary status of a Group-D w.e.f. 25.4.1999 (A-1). According to him, he had satisfied all the requirements for regularisation therefore, he was entitled to get all service benefits of Group-D. As the respondents did not grant the same, he moved this O.A on the grounds that the refusal of the respondents to regularise his service is against justice, equity and good conscience, he is legally entitled to get all service benefits of a regular employee w.e.f the date of grant of temporary status i.e 25.4.1999, there is no valid reason to deny him the benefits such as night conversion allowances from 25.4. 1999 to 25.6.2002 accrued to him, the junior of the applicant was granted regularisation as Group-D and the refusal to regularise his service is against the order of the Tribunal in O.A. 738/2003.

2 The respondents in their reply statement submitted that the applicant has no cause of action to move the O.A. There is no impugned order or any representation pending consideration. They further submitted that all eligible benefits have been granted to him in compliance with the order of the Tribunal in O.A. 228/2000.

On facts, they submitted that the applicant was conferred with temporary status of Group-D on 25.4.1999. According to them, he was not eligible for any benefits, as casual labourers conferred with temporary status are treated at par with temporary Group-D employees

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w.e.f the date they complete three years of service in the newly acquired temporary status (Annexures R1 & R2) The applicant had completed three years of service only on 25.4.2002. The O.A. 703/2003 filed by him seeking the same reliefs was disposed of by the Tribunal by its order dated 5.1.2006 directing the respondents to consider and dispose of the representation by a speaking order and communicate the decision within three months (R-3). The order was issued on 17.4.2006 rejecting the representation as there was no amount due to him on account of either night conversion or holiday allowance. The applicant being a full time casual labourer conferred with temporary status on 25.4.99 is thus to be considered for regularisation in Group-D cadre only according to his turn. They submitted that mere fulfillment of all the requirements for Group-D posts does not confer any right on him unless there is vacancy and he is selected for appointment in accordance with the Recruitment Rules. They submitted that all benefits available to a temporary status attained casual labourer has been granted to the applicant (Annexure R-5), night conversion and holiday allowances are not admissible to Casual Labourers conferred with temporary status like the applicant.

3 I have heard learned counsel for the parties and perused the records produced before us.

4 The applicant had filed O.A. 703/2003 for identical reliefs before this Tribunal which was disposed of directing the respondents to consider the representation and dispose of the same with due application of mind in accordance with rules and communicate the same by a speaking order within three months from the date of receipt of the

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order. Pursuant to the above order, the respondents have issued Annexure R-4 order dated 17.4.2006, rejecting Annexure A-2 representation of the applicant. The applicant without challenging the R-4 order is again seeking the same reliefs in this O.A. which he sought in O.A. 703/2003 i.e. regularisation w.e.f. 25.4.99 with all other consequential benefits.

5 The respondents were directed to file an affidavit annexing therewith the list of those full time casual labourers conferred with temporary status in TV Division and to indicate the number of vacancies which are going to be filled up under the Group-D category and the likely time taken for appointing the applicant. They were also directed to indicate whether any SC vacancy needs to be filled up as per Special Representation Roster for Group-D and to produce the summary struck for the year ending 31.12.2009 in the roster. Accordingly, the respondents have filed an affidavit on 20th May, 2010. As per the affidavit, there are four full time casual labourers including the applicant who were conferred with temporary status and that the applicant is the juniormost among them and even in the SCS quota a senior is there.

<i>Sl.No.</i>	<i>Name</i>	<i>Category</i>	<i>Temporary status conferred with effect from</i>
1	V.G.Muraleedharan Pillai	UR	29.11.1989
2	K.Kuttalingam	SC	20.05.1998
3	G. Savithri	OBC	19.11.1998
4	M.R. Krishnankutty	SC	25.04.1999

As regards the vacancy position in Group-D cadre, it was submitted that a total of 42 vacancies are remaining unfilled in RMS TV Division as on date relating to the period from 2006-2009 during which

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no post was approved for being filled up by the Screening Committee. The respondents are taking action in this regard in consultation with Postal Directorate.

As regards filling up of SC vacancy, it is submitted that as on 31.12.2009 there is over representation of SC in Group-D, i.e against 12 posts required, 20 Mailmen are in position, the summary as on 31.12.2009 is given below:

	<i>Total</i>	<i>SCs</i>	<i>ST</i>	<i>OBC</i>	<i>U</i>
Posts sanctioned	120	12	1	32	75
In position		20	1	30	69
Shortage(-)/ Excess(+)		Excess (+8)	Nil	Shortage(-2)	(-6)

They further submitted that the applicant has been given all eligible benefits as per the orders of the Tribunal and he is not entitled for any other reliefs as claimed in the instant O.A.

6 As per the judgment of the Hon'ble Apex Court as conveyed through DG's letter No. 45-95/87-STB-I dated 12.4.1991 (Annexure R1), conferment of temporary status does not automatically imply that the casual labourers would be appointed as a regular Group-D employee within any fixed time frame. Appointment to Group-D post has to be against vacancies and hence it will continue to be done as per the extant Recruitment Rules which stipulate 25% of vacancies to be earmarked for temporary status Casual Labourer. 75% of the vacancies has to be filled up by GDS of the Recruitment Division or unit failing which by GDS of the neighbouring Division or unit by selection cum seniority and 25% of the vacancies which remain unfilled after recruitment is to be

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filled by Casual Labourers (a) with temporary status, (b) full time casual labourers of the recruitment division © full time Casual labourers of of neighbouring division and (d) by part time casual labourers of the recruiting division. However, they would be eligible for leave entitlement, increment, maternity leave etc. and that grant of temporary status to the Casual Labourers has no relation to the sanctioned regular Group-D posts and that night conversion and holiday allowances are not admissible to them. The applicant being a full time casual labourer conferred with temporary status on 25.4.1999, would be considered for regularisation in Group-D cadre only according to his turn.

7 In this view of the matter, I am of the view that the O.A can be disposed of with a direction to the respondents to consider regularisation of the applicant in his turn. I order accordingly. There shall be no order as to costs.

Dated 28th May, 2010


K. NOORJEHAN
ADMINISTRATIVE MEMBER

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