

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

....

O.A. 586/93

Thursday, this the 3rd day of February, 1994

Shri N.Dharmadan, Judicial Member

Shri S.Kasipandian, Administrative Member

Applicant:

Shri S.Harikumar,  
Casual Labourer,  
Speed Post Centre,  
Aristo Junction,  
Trivandrum-14.

By Advocate Shri Thomas Mathew

Versus

Respondents:

1. Manager, Speed Post Centre,  
Aristo Junction,  
Trivandrum-14.
2. Senior Superintendent of Post Offices,  
Trivandrum North Division,  
Trivandrum-1.
3. Chief Post Master General,  
Kerala Circle,  
Trivandrum.
4. Union of India, rep. by  
Secretary, Department of Posts,  
New Delhi.

By Advocate Shri Karthikeya Panicker

O R D E R

N.Dharmadan, JM

The applicant is a casual labourer, who worked in the Speed Post Centre at Trivandrum. According to him, from 1987 to 1993, he had worked depending upon the availability of work. He submitted that in most of the years, he has worked more than 240 days. In the light of Ann.A4 office memorandum he is eligible to get temporary status. Ann.A4 is the office memorandum dated 12.4.91. The relevant clause is extracted below:

"1. Temporary Status would be conferred on the casual labourers in employment as on 29.11.89 and who continue to be currently employed and have rendered

continuous service of at least one year; during the year they must have been engaged for a period of 240 days (206 days in the case of offices observing five days week)."

He has given the details of his work in the Post Office in Annex.A6 statement prepared by him. The following details are disclosed. In 1988 he worked 260 days, 1989 - 173 days, 1990 - 257 days, 1991 - 264 days, 1992 - 331 days and 1993 - 252 days.

2. The averment of the applicant in the OA in ground (2) has been answered by the respondents in the following manner:

"Regarding averments contained in Ground 2 it is submitted that the applicant had never worked as full time casual mazdoor. As already pointed out he was only engaged as a substitute working in leave arrangement of Postmen/Group D on the responsibility of the absentees. There are several other outsiders who are thus engaged in Post Offices."

According to the respondents for the period between 3.11.90 to 31.12.90 the applicant had only worked as an 'Outsider' substitute in place of Postman/Group D. They say that the applicant had worked only as 'outsider substitute' and hence he is not eligible for temporary status in the light of Annex.A4. The applicant moved on MA 1895/93. After hearing the learned counsel on both sides, we passed an order on 26.11.93, directing the respondents to produce documents listed in the M.A.

3. The learned counsel for respondents strenuously argued that applicant has no right to be regularised and he is also not entitled to temporary status in the light of Ann.R2(a) and R2(b) orders issued by the department. The stand of the respondents is that the applicant was working throughout as a substitute. We have verified the above documents and the records produced by the respondents pursuant to the direction of this Tribunal on 26.11.93. On a random verification it is seen that in various places, the applicant is shown as Mazdoor. It is true that some of the entries read as OS, denoting 'outsider'. In fact the applicant worked during the aforesaid period and the records and registers

prove this fact.

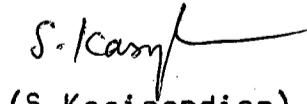
4. After considering the matter in detail, we have no doubt in our mind that the applicant was depending upon the Postal Department for his livelihood from 1987 to 1993. According to him he was prepared to work throughout the year in every year, but work was given to him depending the availability. He was continuing as a Casual Mazdoor without being regularised in accordance with law for a long period. The Supreme Court has in number of cases held that the practice of allowing casual labourers without regularisation for long period causes untold misery and injustice to them. If they worked for more than 240 days in any of these years, they are entitled for regularisation in accordance with the rules and orders in force. In Annex.A4 it has been made clear that casual employees, who have worked for more than 240 days in any of the years during the continuous period of his service, are entitled to temporary status.

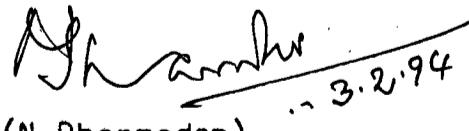
5. On a careful consideration of the contentions in the light of Ann.A4 office memorandum, we are satisfied that the applicant is entitled to temporary status as claimed by him in this OA. Accordingly we allow the application and declare that the applicant is entitled to temporary status w.e.f.

29.11.89. It goes without saying that the applicant is entitled to consequential benefits, if any, due to him in accordance with law.

6. The OA is allowed with the above observation/finding.

No costs.

  
(S. Kasipandian)  
Member (A)

  
3.2.94  
(N. Dharmadan)  
Member (J)