

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. NO. 589/93

Friday, this the 25th day of February, 1994

SHRI N. DHARMADAN, MEMBER (J)
SHRI S. KASIPANDIAN, MEMBER (A)

M. Muraleedharan,
Temporaru Status Mazdoor,
AE Phones, External (N),
Kanattukara, Thrissur. .. Applicant

By Advocate Shri M. Paul Varghese.

V/s

1. The Telecom District Manager,
Trissur.
2. Chief General Manager,
Telecommunications, Kerala Circle,
Trivandrum-33.
3. Director, Telecom Commission,
New Delhi. .. Respondents

By Advocate Shri Mathew G. Vadakkel, ACGSC.

ORDER

N. DHARMADAN

Applicant is now working as temporary status mazdoor in the office of the first respondent. He is aggrieved by the refusal of the respondents to regularise him in service w.e.f. 31.12.91 in the light of the principles and procedure for regularisation in Annexure-III proceedings dated 3.1.92.

2. Applicant commenced service as casual employee from 29.1.82. He worked continuously for short spells of period from 1982 to 31.3.92. He produced Annexures-I and II certificates issued by the SDO, Telephones, Trichur and Accounts Officer, Office of the DET, Trichur. The details of his work from 1981-82 to 1991-92 are given in the O.A. as follows:-

<u>"Year (April to March</u>	<u>No. of days</u>
1981-82	49 days
82-83	323 days
83-84	295 days
84-85	315 days
85-86	306 days
86-87	292 days
87-88	273 days
88-89	314 days
89-90	329 days
90-91	329 days
91-92	335 days "

3. According to the applicant, as per Annexure-III proceedings he is entitled to get regularisation w.e.f. 31.3.92. The relevant portions of Annexure-III reads as follows:-

- "1. The regularisation of "Temporary Status mazdoors" will be done in a phased manner. In the first instance "Temporary Status Mazdoors" who have put in 10 years service or more as on 31.12.91, will be considered for regularisation. Thereafter the regularisation will be done on year to year basis at the end of each financial year, i.e. "Temporary Status Mazdoors" with ten years service as on 31st March of each year.
2. The eligibility conditions for consideration will be as under;:-
 1. "Temporary Status Mazdoors" who have put in a service of 240 days per year (206 days or more per year in respect of those working in office where 5 days week is observed), in any three years prior to the date from which they are proposed to be absorbed and have been on rolls of the Department during the preceding one year, ie. since January 1991."

Applicant filed representations for getting regularisation, latest of which has been disposed of as per order, Annexure-VI, which reads as follows:-

" As per departmental rules, only temporary status casual mazdoors who have been enrolled on work prior to 31.03.1982 will be eligible for regularisation. This condition is not satisfied as could be seen from your labour card. As the date of initial engagement is after 31.03.1982, DPC could not consider your case for regularisation."

4. The only objection raised by the respondents is that Annexure-I produced by the applicant has not been duly signed by the competent authority and, hence, it cannot be relied upon. They further submitted that Annexure-I certificate cannot be relied on for proving the service of the applicant in the light of letter, Annexure-R1, sent by SDO, Telephones, Trichur to Accounts Officer, Works & Planning, Office of TDM, Trichur for issuing further certificate to the applicant and the reply dated 3.7.92, Annexure-R2.

5. Applicant denied this statement in his rejoinder filed in answer to the reply. He produced the photostat copy of the entries in the mazdoor Card of the applicant containing the signature of the SDO, Trichur under whom the applicant worked during the year 1982-83. He also produced Annexure-IX letter sent by the same Accounts Officer, who has sent Annexure-R2 reply, in connection with the regularisation of K.A. Sulaiman. The applicant submitted that from Annexure-IX it is clear that the statement that records are not traceable for verification of the services of the applicant is a wrong and incorrect statement. Annexure-IX was issued on 30.1.92 by the same officer certifying the services of Shri Sulaiman from 28.2.82 to 15.3.82. According to the learned counsel for the applicant it is evident that certificates will be issued to only those persons in whom the respondents are interested. If the services of Shri Sulaiman can be certified after due verification, the same procedure can be followed in the case of the applicant also.

6. In view of the controversy in this case, we have called for the original and perused the original Mazdoor Cards and the signature of the SDO, Telephones, Trichur. On verification, we are satisfied that in every month the SDO has signed and it is a genuine document to be relied on.

The entries were made at the time when the applicant worked in the office and hence the contention of the applicant is correct and proved by records as true that he ~~originally~~ worked from 29.1.827 and case about prior service covered by Annexures-I and II can be accepted as correct. Applicant is entitled to regularisation in the light of Annexure-III proceedings.

7. Accordingly, having regard to the facts and circumstances of the case, we are of the view that the applicant has a genuine case and he is entitled to regularisation from the second phase of the scheme referred to in Annexure-III.

8. Learned counsel for the applicant submitted that pending the original application, the applicant was regularised w.e.f. 6.10.93; but in view of the fact that applicant has completed ten years and satisfied all the requirements in Annexure-III before 31.3.92, he is entitled to regularisation with effect from that date. After verification of the original mazdoor cards produced by the applicant, we are satisfied that the applicant was denied earlier regularisation in the second phase for no fault of him. Under these circumstances, we are of the view that the applicant's claim for regularisation in the second phase in terms of Annexure-III is to be accepted. Accordingly, we declare that applicant is entitled to regularisation w.e.f. 31.3.92 along with others who have been regularised as per Annexure-V. He is eligible to be included in the list in appropriate place with all consequential benefits.

9. We allow the application with the aforesaid declaration. We further direct the respondents to implement the directions within three months, if necessary by holding a review DPC or other required selection proceedings. There will be no order as to costs.


(S. KASIPANDIAN)
MEMBER(A)


(N. DHARMADAN)
MEMBER(J)