

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM

O. A. No. 599/90

199

~~KXXXNS~~

DATE OF DECISION 19.9.90

N Premadas

Applicant (s)

Mr. MR Rajendran Nair

Advocate for the Applicant (s)

Versus

The Sub Divisional Officer,
~~Telegraphs, Palakkad & 2 others~~ Respondent (s)

Mr KA Cherian, ACGSC

Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. NV Krishnan, Administrative Member

The Hon'ble Mr. N Dharmadan, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? *no*
2. To be referred to the Reporter or not? *no*
3. Whether their Lordships wish to see the fair copy of the Judgement? *no*
4. To be circulated to all Benches of the Tribunal? *no*

JUDGEMENT

Shri N Dharmadan, Judicial Member

The applicant's grievance is that the Respondents are engaging contractors and outsiders for their works. Consequently they are refusing to engage the applicant and other casual mazdoors.

2 The applicant is a Casual Mazdoor and his limited prayer pressed at the time of hearing is that he may be considered for grant of available work by including his name also in the list of casual mazdoors maintained by the Respondent-1 giving only bottom most position.

3 According to the applicant he was engaged by Respondent-1 as a casual mazdoor on 27.3.85. Thereafter, he worked on Muster Roll and on bills basis under various

Linemen in the Telephone Exchanges at Nenmara, Adiperanda and Nelliampathi during the year 1986-89. He had also worked as part time cleaner ever since 1.1.86 to 31.7.86. In 1988-89 also he had been allotted work by the respondents whenever the same was available. He submitted that his name had been entered in ACG 17 Register. He produced Annexure-1 certificate issued by the Telephone Inspector to show that he had been engaged as casual mazdoor in Telephone Department during the year 1986 to 89. On these facts, he claimed that he is entitled to the protection under Section 25-B of the ID Act 1947. He has also relied on the decision of the Supreme Court reported in AIR 1976 SC-2347 and contended that he is entitled to the benefits contemplated in the ~~directors~~^{decision by} and the respondents are bound to engage him as casual mazdoor and to regularise his services in accordance with law giving due weightage to his past service.

4 The respondents have filed a counter affidavit denying all the averments and statements regarding the continuous engagement of the applicant as a casual mazdoor. They have stated that they have not maintained any ACG-17 Register as alleged by the applicant. The contention of the applicant that he is entitled to the protection under Section 25-B of the ID Act, 1947 is also denied by them. Annexure R1(a), copy of the Muster Roll was produced to show that the applicant's name was not included in it. But they had admitted that the

applicant was engaged to carry some materials from road side to Telephone Exchange for some time. They had also admitted the Annexure-I certificate but contended that the Telephone Inspector is not competent to issue such a certificate. They had denied his claim for further engagement and regularisation because he had been paid as and when his services utilised. Accordingly, they have stated that the application is liable to be dismissed with costs.

5 The applicant has filed a rejoinder also.

6 Having heard the matter and after perusing the documents we are satisfied that the applicant had been engaged by the 1st respondent as casual mazdoor for atleast for a short duration~~s~~ ever since 1985 onwards. His casual engagement under Respondent-1 continued upto 1989. Even though the records produced by the respondents ~~do~~ not show that his name was included in the muster rolls he cannot be denied the benefit of his past service under Respondent-1 as casual mazdoor. His past service is established from Annexure-1 certificate which is not denied by the respondents. If his services were utilised at least for some period from 1985 onwards, he is entitled to be engaged by Respondent-1 as and when work is available as claimed in the applicant. The learned counsel for the applicant contended that the engagement of contractors and outsiders for the works of the respondents is illegal and against the principles laid down by the Supreme Court ^{about} ~~on~~ the rights of casual mazdoors.

But we are not considering these contentions in this application. It is unnecessary for us to deal with the same on the facts and circumstances of the case. The applicant may take such steps as he may deem fit in this behalf.

7 Having regard to the facts and circumstances of the case we are of the view that this application can be disposed of with the direction that the 1st respondent shall include the name of the applicant in the list of casual mazdoor as the last man as on today and engage him as and when casual work is available along with others. The respondents shall also consider the question of regularising the applicant in service in accordance with his turn and seniority as per the list of casual labourers in accordance with law.

8 The application is disposed of accordingly and there will be no order as to costs.



(N DHARMADA N) 19. 9. 90.
JUDICIAL MEMBER

19.9.90



(N.V. KRISHNAN)
ADMINISTRATIVE MEMBER