

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 599/91
~~XXXXX6~~

199

DATE OF DECISION 28-8-1991

MM Sreedharan Applicant (s)

Mr MR Rajendran Nair Advocate for the Applicant (s)

Versus

The General Manager, Telecom, Respondent (s)
Ernakulam and others.

Mr P Sankarankutty Nair, ACGSC Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. SP Mukerji, Vice Chairman

The Hon'ble Mr. AV Haridasan, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. To be circulated to all Benches of the Tribunal?

JUDGEMENT

Shri SP Mukerji, Vice Chairman

In this application dated 13.4.1991, filed under Section 19 of the Administrative Tribunals Act, the applicant who ~~was~~ ^{is} a physically handicapped person and had worked in the Office of the Divisional Engineer, Telegraphs, Ernakulam as a casual labourer between 6.6.83 and 5.11.83 has prayed that the respondents be directed to give him suitable employment considering his physical disability and past service and to regularise him in his due turn. In support of his previous engagement, the applicant has produced a certificate at Annexure-I issued by the Accounts Officer, Telegraph Engineering Division, Ernakulam. He has given his educational qualification as SSLC

pass and stated that he knows typewriting and undergone teleprinting and telex-PBX operative course. According to him, he filed a representation dated 8.5.86 (Annexure-II) seeking casual employment and absorption in Group-D post. His further representations dated 13.7.89, 22.9.89 and 5.3.91 did not bear any fruit.

2 In the counter affidavit the respondents have stated that the applicant was not an approved casual mazdoor and denying his averment that he worked on casual basis during 6.6.83 and 5.11.83 they have stated that he had worked for a few days intermittently which will not entitle him to get continuous engagement or re-engagement. They have stated that the application is time barred also. They have also stated that only those who had worked 240 days before 30.3.85 are entitled ^{to} ~~for~~ regularisation and conferment of temporary status. They have further stated that his representation dated 5.3.91 at Annexure-V was rejected on 8.4.91. He had worked only for 73 days during 1983 and he is entitled ^{the} to the benefits of Industrial Disputes Act.

3 In the rejoinder, the applicant has stated that except on Saturdays and Sundays he had worked continuously from 6.6.83 to 5.11.83. He ^{has} ~~is~~ alleged that the respondents have given casual employment to those who had worked for 84 days.

4 We have heard the arguments of the learned counsel, for both the parties and gone through the documents carefully. In a similar case in OA 1206/90 decided by this Tribunal by its judgment dated 12.7.91, the applicant therein also having worked for several days in 1984 and 1986 in the Mavelikkara Sub Division on muster roll numbers was denied employment from 30.6.1987. When he came to know that the respondents are reengaging casual mazdoors who worked prior to 1985 he sought reengagement through a representation on the ground that several persons junior to him were being regularised. Repelling the contention of the respondents in that case that the applicant himself abandoned the work, and on the ground that the applicant therein had admittedly worked for 247 days, the Tribunal gave the relief as follows:-

"Under these circumstances, we are inclined to follow our earlier judgment and dispose of the application, after declaring that the applicant is entitled to casual mazdoor card, with the direction that the respondents shall include his name in the list of approved casual mazdoors and give him work and wages whenever work is available in accordance with the seniority and also grant him an approval card. The respondents shall also consider him for regularisation in service as Group 'D' employees. The application is accordingly disposed of as indicated above."

In O.A. 747/89 (MK Susheelan Vs. General Manager, Telecommunications) decided by this Tribunal on 1.6.1990 the applicant who had according to him worked as a casual labourer for a total of 2020 days between 1973

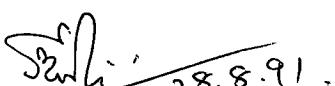
and 1979 and was denied re-engagement when he represented in 1989, the Bench directed the respondents to consider the applicant for casual employment with bottom seniority for any future assignment for which he is found suitable. In O.A 1233/90 and O.A 1/91 decided by this Tribunal in its judgment dated 28.6.1991 to which one of us (Shri S.P. Mukerji) was a party, the applicants who had worked only for 38 days and 77 days on muster roll numbers during 1985-87 were directed to be considered for re-engagement as approved casual mazdoors on the basis of their seniority. Similar application O.A 21/90 wherein the applicant had worked as a casual labourer for 84 days during 1983 was allowed to be included in the list of casual mazdoors with bottom seniority and given work whenever work is available.

5 In the light of the circumstances of the case and the decisions of the Tribunal in similar cases we allow this application to the extent of directing the respondents to include the name of the applicant in the list of casual mazdoors with bottom seniority and consider him for reengagement as a casual worker whenever work is available on the basis of his seniority and suitability in preference to rank outsiders.

6 There will be no order as to costs.


AV Haridasan

(AV Haridasan)
Judicial Member


SP Mukerji
28.8.91

(SP Mukerji)
Vice Chairman