

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No.
~~XXXXXX~~

601 of 1991

DATE OF DECISION 14.11.91

T.S. Yamuna Devi Applicant (s)

Mr. M. R. Rajendran Nair Advocate for the Applicant (s)

Versus

The Senior Superintendent Respondent (s)
of Post Offices, Ernakulam and others

Mr. K. A. Cherian Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. N. V. Krishnan - Administrative Member

and

The Hon'ble Mr. A. V. 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

(Hon'ble Mr. N. V. Krishnan, Administrative Member)

The applicant was engaged as a casual mazdoor on 5.2.83 under the Supervisor, Foreign Post Office, Kochi, the second respondent. She had intermittent spells of service till July, 1990. It is stated that she had worked for 276 days in 1984, 292 days in 1985, 264 days in 1986, 240 days in 1987, 1983 days in 1988, 175 days in 1989 and 30 days in 1990. She has not been given work since then. The applicant contended that though there is sufficient work under the respondents she has not been given any engagement. Three of her juniors have been given regular appointment as evidenced by Annexure-III Memorandum. The applicant has therefore prayed for the following reliefs.

(i) To declare that termination of applicant's service with effect from July, 1990 is null and void.

(ii) Direct the respondents to give work and wages to applicant and to regularise her in service in the light of direction at the Supreme Court in the decision reported in AIR 1987 2342.

2. The respondents admit that the applicant was engaged from 1983 as it was found that the work load could not be discharged by the regular Group 'D' staff. Since then, things have changed considerably as there is now a steep decrease in the receipt of postal articles at Kochi Foreign Post Office. Therefore, adequate work is not available even for the existing regular Group 'D' staff. Hence, casual labourers like the applicant could not be continued on duty in that Post Office since some time now. In regard to the Annexure-III order the respondents contend that this has been done in pursuance of a direction given by the Tribunal in O.A.469/89. It is prayed that as there is not enough work now in the Kochi Foreign Post Office, this application be dismissed.

3. We have perused the records of the case and heard the learned counsel on both sides. Neither party has produced before us a copy of the Judgment in O.A. 469/89 in Annexure-III order has been issued. We have, therefore, perused the records of O.A.469/89. It is noticed from that application that the respondents admitted, that the four applicants therein were still continuing as casual labour in the Foreign Post Office, Kochi and the question of their regularisation was being considered. Therefore, a direction was issued to the

respondents to consider their case for regularisation within a period of six months. The learned counsel for the respondents submitted that the four persons who were regularised by the Annexure-III order had continued in service without any break and hence their case is different from that of the applicant.

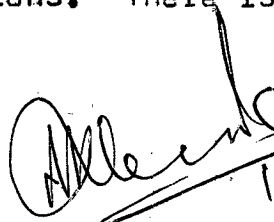
4. In view of this contention, we directed the respondents to produce records to indicate whether the claim of the applicant that she is senior to the three ^{u four} out of the persons regularised by the Annexure-III order (ie., persons at S.No.2,3 and 4 thereof) is correct or not. The learned counsel for the respondents has filed a statement stating that the need for maintaining a seniority list was not felt and hence such a seniority list is not maintained. No attendance register is also maintained. Records are available showing payment of wages to the casual mazdoor.

5. In the circumstances, we are of the view that the respondents have not been able to affirm positively that the applicant is not senior to the persons at S.No.2,3 &4 regularised by the Annexure.III order. On the other hand, the applicant has also not been able to establish, except with reference to the date of initial engagement, that he is senior to them. In our view, in regard to casual labour, seniority will normally have to be determined not with reference to the date of initial engagement but with reference to the number of days engaged as on the day of reckoning of seniority.


6. In this view of the matter, we dispose of this ^{first} application by directing the respondent to engage the

applicant as casual mazdoor anywhere in the Division,
if it is found that any person junior to her as a casual
labour has been given engagement and to consider her case
for regularisation in the Division in accordance with
her turn.

7. The application is disposed of with the above
directions. There is no order as to costs.


14/11/91

(A.V. Haridasan)
Judicial Member


14.11.91

(N.V. Krishnan)
Administrative Member

14.11.91

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CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

C.P(C) No.131/1992

in

O.A.601/91

Wednesday this the 19th day of January, 1994

CORAM

The Hon'ble Mr. Justice Chettur Sankaran Nair, Vice Chairman
The Hon'ble Mr. P.V. Venkatakrishnan, Administrative Member

T.S. Yamunadevi, VIII/1746,
40 Rooms, Haridas Lane,
Opposite to UCO Bank
Chakkamadam, Cochin-2.

...Petitioner

(By Advocate Mr. MR Rajendran Nair)

Vs.

1. Mahesh, Senior Supdt. of Post Offices,
Ernakulam.Respondent


(By Advocate Mr. S. Krishnamoorthy, ACGSC)

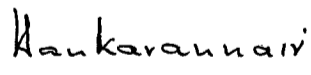
O R D E R

CHETTUR SANKARAN NAIR(J), VICE CHAIRMAN.

Petitioner submits that she does not wish to pursue the petition, though it may become necessary for her to seek certain other reliefs of consequential nature. In view of the statement, it is unnecessary to consider the Contempt Petition and we dismiss the same without expressing any opinion on the claims to be made by petitioner. No costs.

Dated the 19th January, 1994.


P.V. VENKATAKRISHNAN
ADMINISTRATIVE MEMBER


CHETTUR SANKARAN NAIR(J)
VICE CHAIRMAN

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