

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No.
~~603 of~~

603 of

199 2.

DATE OF DECISION 21-10-92

P. Manikandan

Applicant (s)

Mr. M. R. Rajendran Nair

Advocate for the Applicant (s)

Versus

Sub Divisional Officer,

Respondent (s)

Telegraph, Palakkad and another

Mr. George Joseph, ACGSC

Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. **S.P. Mikerji, Vice Chairman**

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 Shri S.P. Mikerji, Vice Chairman)

We have heard the learned counsel for both the parties on this application dated 24.4.92 filed under Section 19 of the Administrative Tribunals Act in which the applicant has challenged the impugned order dated ^{at Annexure III} 1.9.87, in so far as it removes his name from the list of approved casual mazdoor, as also the order dated ^{at Annexure IV} 6.4.91, in which his representation was said to have been referred to higher authorities. He has prayed that apart from setting aside the two impugned orders/^{he} should be declared to be entitled to be included as approved casual mazdoor and to get work and wages on the basis of his service from 1985 onwards.

2. When the case was taken up for arguments today it was revealed that identical cases were disposed of

by this Tribunal in O.A.1097/90 and O.A.1496/91. In O.A.1097/90 the applicant shri A. Ramakrishnan figures at Sl.No.5 and the applicant in O.A.1496/91 Shri Shahul Hameed figures at Sl.No.9 in the same ^{dated 1.8.87 at Annexure III} impugned order. The applicant before us figures ^{at} Sl.No.2 in the same order. The circumstances of their having ^{been} included in the list of approved mazdoors and having their names removed from that list by the impugned order at Annexure-3 are identical. They were included by the same order at Annexure 3(a) and removed by the same order at Annexure-3. The application O.A.1496/91 was disposed of by us by our order dated 30.7.92 relying on the judgment of this Tribunal to which one of us again was a party dated 28.6.91 in O.A.1097/90 (Annexure-5). O.A. 1097/90 was allowed with the following observations:

"6. The case of the respondents is that they have found some irregularity during verification but they have not specified the nature and scope of the irregularity to discern whether it is sufficient enough to remove the name of the applicant from the list of approved casual maadoor. If so, they are obliged to give notice and an opportunity of being heard before resorting to such a drastic action of removal of his name from the list of ACM and Muster. The respondents have not denied the fact that the applicant was neither served with a notice nor was he heard before the removal. The denial of opportunity and reasonable notice is violative of the basic canons of principles of natural justice and hence the action of the respondents lacks legal sanctity and is unsustainable in the eye of law."

3. Since the facts and circumstances of the impugned order in O.A.1097/90 and O.A.1496/91 are similar to this application before us, accepting the ratio in O.A.1097/90 we find that the impugned order at Annexure-3 dated 1.8.87 is not valid and has to be struck down.

4. In the facts and circumstances we allow the application, set aside the impugned order dated 1.8.87 at Annexure-3 and the order dated 6.4.91 at Annexure-4 and declare that the applicant as an approved casual mazdoor is entitled to get work and wages on the basis of his seniority in the approved list at Annexure-3(a) dated 26-11-86 and is also entitled to regularisation in his due turn if he is otherwise eligible for the same. There will be no order as to costs.


(A.V. HARIDASAN)
JUDICIAL MEMBER


(S.P. MUKERJI)
VICE CHAIRMAN

21-10-92

ks21X.