

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 604 of 1999

Monday, this the 24th day of July, 2000

CORAM

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER

1. K.V. Suresh,
S/o Vellankandan,
Kuruvacode House,
Erumayoor PO, Palghat.
2. Vasudevan,
S/o Kuttan,
Pullikkalpura House,
Erumayoor PO, Palghat.
3. K. Suresh,
S/o Kadumuttan,
Pulakkal House,
Erumayoor PO, Palghat.

...Applicants

By Advocate Ms. K. Indu

Versus

1. The General Manager, Telecom,
Palghat Division, Palghat.
2. The Assistant General Manager (Administration),
O/o the General Manager, Telecom, Palghat.
3. The Sub Divisional Officer, Telecom,
Alathur Sub Division, Alathur.
4. Sub Divisional Inspector,
Department of Telecom,
Kuzhalmannam, Palghat.

..Respondents

By Advocate Mr. P. Vijayakumar, ACGSC

The application having been heard on 24th July, 2000,
the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER

Applicants seek to direct the respondents not to terminate their services as Watchmen from their present place of service and to direct the respondents to regularise them as Watchmen in their present places where they have continuously worked for more than 240 days, without replacing them with temporary hands.

2. Applicants say that they are casual workers engaged by the department. Since May, 1997 applicants are doing 8 hours duty per day as Watchmen. They were engaged on several occasions earlier as casual labourers. The 1st applicant worked in Kuzhalmannam Exchange during the period from 1986 to 1992. Thereafter, the applicants were working as Scavengers in Thenkurshi and Puthennoor Exchanges. They were working as full time casual labourers in the capacity of Watchmen. Payment is made in lumpsum either monthly or weekly. Stamped receipts were issued. They have been orally informed that they will not be allowed to continue in their present post from 1-6-1999 onwards. They have completed more than 240 days in a year.

3. Respondents resist the OA contending that this OA is not maintainable before this Tribunal. Applicants were either recruited, nor appointed by any competent authority as casual mazdoors in the department. The recruitment or engagement of casual mazdoors in the department for any type of work has been banned since 22-6-1988. Applicants would have been engaged for doing some petty contingent or piece-work by the subordinate staff.

4. At the very outset, it is pertinent to note that apart from the applicants very vaguely saying that they are casual workers engaged by the department, since what date they do not say specifically. They say that since May, 1997 they are doing 8 hours duty per day and even on earlier occasions they were engaged. What are those earlier occasions the applicants feel more convenient not to disclose.

5. It is stated that the 1st applicant has worked in Kuzhalmannam Exchange for the period from 1986 to 1992. Reliance is placed on A1. It is the admitted case of the

applicants that A1 and A2 were picked up by the applicants from out of the records thrown out by the department for destruction. In the first page of A1, on the last column, it is stated thus:

"Signature of IM or SI, PT/JE".

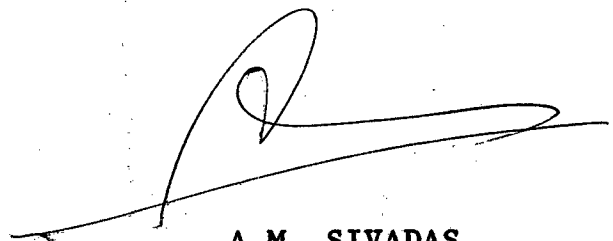
Below certain signatures "IM" could be seen. I asked the learned counsel for applicants as well as the learned counsel for respondents, what is the full form of "IM". Both could not enlighten me. It is not known then who has signed in A1 and whether the authority who has signed has got the right to do so. It is also relevant to note at this juncture that in the third page of A1, in the last column, below the signature there is no designation like 'IM' or anything. It is for the applicants to show if they are relying on A1, that A1 was issued by an authority competent. Since both sides could not enlighten as to what authority has signed in A1, it is not known whether it is by an authority competent. In the absence of proving that A1 was issued by an authority competent, the applicants cannot seek any relief under the shelter of A1.

6. A2 is also relied on by the applicants. In the first page of A2, what authority has signed there is not clear. Faintly the word 'Junior' is seen there. The learned counsel appearing for the applicants submitted that it was signed by the Junior Telecom Officer. There is one entry which says that 'paid scavanching charges to Suresh of KTNR exge for the month of dec-92'. I asked the learned counsel for applicants what is the full form of 'KTNR' and it was submitted that 'KTNR' refers to 'Kuthanoor'. There is no averment in the OA that anyone of the applicants was working in Kuthanoor Exchange. The 1st applicant is K.V. Suresh and the 3rd applicant is K. Suresh. Initials of Suresh is not seen in A2. Since the reference there is in respect of Suresh who was engaged in Kuthanoor

10. It is specifically stated in the reply statement that the department in compliance with the directions of this Bench of the Tribunal in OA 1402/93 notified on 27-2-1995 inviting applications for re-engagement as a one time measure from candidates who had worked prior to 22-6-1988 and the applicants did not apply for re-engagement. This is not denied. Applicants say that they were continuously engaged and there was no necessity to apply for re-engagement. The case of the applicants that ever since their initial engagement they are continuing without any break cannot be accepted in the light of the order of this Bench of the Tribunal in OA 1095/99 filed by the very same applicants. There the case of the applicants was that they had been engaged earlier as casual labourers on various spells and denied work on the ground that their names were not sponsored by the Employment Exchange. That would go to show that they were not continuously working since their initial engagement. That being so, it cannot be said that when the department invited applications for re-engagement in the year 1995 the applicants were engaged and therefore there was no necessity for them to apply.

11. I do not find any merit in this Original Application and accordingly the Original Application is dismissed. No costs.

Monday, this the 24th day of July, 2000



A.M. SIVADAS
JUDICIAL MEMBER

ak.

Exchange and the applicants do not have a case that anyone of them was working in Kuthanoor Exchange, the first page of A2 apart from other aspects is of no help to the applicants. The second page of A2, it is not known whether it is signed by any competent officer. There is no designation of the officer who has signed it. So, no reliance can be placed on the second page of A2 also.

7. No reliance can be placed on A3 since it is not certified as a true copy of the original.

8. A3(2) is a receipt which clearly says that work was executed by K.V. Suresh on contract basis. It relates to the year 1999. It is issued by the 1st applicant. A3(a) is another receipt relating to the work done on contract during the year 1999 issued by the 2nd applicant. A3(b) says that during certain days in the year 1998 the 3rd applicant did some work on quotations. So, A3 series do not help the applicants.

9. There was a ban on recruitment of casual mazdoors since 22-6-1988, it is stated by the respondents. The same is not denied by the applicants. Though it is stated relying on A1 that the 1st applicant was engaged from 1986 onwards, since no reliance can be placed on A1 and in the absence of any other document to show that the 1st applicant was engaged at any period prior to 22-6-1988, it would only be taken that the applicants were engaged only after 22-6-1988 especially in the light of the non-specific averment as to the date of their engagement. If casual mazdoors were recruited for the first time after the ban, whether through or otherwise through the Employment Exchange, no benefit of casual service shall accrue to them in the matter of seniority, re-engagement or regularisation.

List of Annexures referred to in this Order:

1. A1 True copy of the relevant pages of A.C. 17
2. A2 True copies of the relevant pages of the
 Imprest Bill during the period 1990-1993
3. A3 True copy of the receipt issued to the 1st
 applicant.
4. A3(2) True copy of the receipt issued to the 1st
 applicant.
5. A3(a) True copy of the receipt issued to the 2nd
 applicant.
6. A3(b) True copy of the receipt issued to the 3rd
 applicant.