

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM

O.A. No. 604
T.A. No.

199 0

DATE OF DECISION 4.10.90

M. A. Balan Applicant (s)

Mr. P. S. Biju Advocate for the Applicant (s)

Versus

UOI rep. by PMG, CFC, Cochin Respondent (s)
and others

Mr. T.P.M. Ibrahimkhan Advocate for the Respondent (s)

CORAM:

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

The Hon'ble Mr. N. Dharmadan, 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 N. V. KRISHNAN, ADMINISTRATIVE MEMBER

The applicant in this case was engaged as ^acasual driver by Annexure-I order under the third respondent, the Manager, Mail Motor Services, Ernakulam.

2. The third respondent issued on 12.7.90 a letter to the applicant, the subject of which is "termination of casual engagement; showcause notice". It mentioned about ~~of~~ an accident to the vehicle for which an enquiry was conducted as well as the alleged delays in carrying the mail to Alleppey as mentioned in that notice, and concluded as follows:

"It is therefore decided to terminate your casual employment in this office. If you have any explanation for not taking the above decision, you may submit the same within ten days from the date of receipt of this letter."

2. The applicant is aggrieved by this letter which he has styled ^{as} terminating of his service. It is stated that in reply to this showcause notice, Annexure-IV reply dated 19.7.90 was given by him to the third respondent. According to the applicant, his engagement as casual driver was discontinued even before his explanation Annexure-IV was either received by the authority or considered.

3. In the circumstance, the applicant prays for quashing the Annexure-III showcause notice and to give a direction to the third respondent to reengage him in service till a proper and legal order is passed after affording him an opportunity of being heard and also to direct the respondents to regularise his service.

4. The respondents have filed a reply contending that the applicant is only working ^{on} a casual basis. It is also stated that Annexure-III was only a showcause notice and it was only a proposal to afford an opportunity to the applicant to represent against the proposed termination of service. It is also contended that the applicant does not have sufficient number of days of service to claim the reliefs as prayed for.

5. We have perused the records and heard the counsel. We are of the view that Annexure-III letter can be treated only as a proposal to terminate the service of the applicant for errors of omissions and commissions mentioned therein and it was only a showcause notice.

The reply to the showcause/^{notice}is Annexure-IV, The respondent No. 3 is duty bound to consider this explanation and take a proper decision after giving/^{the applicant an}opportunity of being heard in person, as he has now requested in the present application.

6. The counsel for the respondents also ^a~~admits~~ ^{confirms} that being casual labourer it was strictly not necessary to follow such/^aprocedure. Still, as ^{such} procedure has ^{he admits that} already been initiated, it would be only proper that these proceedings are brought to a proper conclusion by following the proper procedure.


7. In the circumstance, we are of the view that the only relief that the applicant is entitled to is for a direction to the third respondent to consider the explanation at Annexure -IV given by the applicant and to give him a personal hearing and take such decision in regard to the matter in accordance with law. ^{direction is given.} Such a /


8. The applicant also referred to para 10 of the counter affidavit wherein respondents have admitted that his services have not been terminated. As against this, the applicant himself has approached this Tribunal

with the grievance that his services had been terminated and that he is being continued to be engaged on the basis of our interim order.

9. In the circumstance, we are of the view that this is also a matter which should also be looked into by the third respondent when dealing with the Annexure.IV reply. Accordingly, we direct the third respondent to look into the matter again and pass the final order with regard to the continuance of the service of the applicant. The interim order will stand vacated as soon as the third respondent passes orders in accordance with the above directions.

10. With the above, directions, we close this application. There will be no order as to costs.


(N. Dharmadan)
Judicial Member


(N.V. Krishnan)
Administrative Member

4.10.1990