

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.606/2001.

Friday this the 12th day of October 2001.

CORAM:

HON'BLE MR. A.V.HARIDASAN, VICE CHAIRMAN

HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER

1. M.K.Rajan, Group 'D' Peon,
Passport Office, Kozhikode.
2. A.P.Sudheer, Group 'D' Peon,
Passport Office, Kozhikode.
3. K.P.Abdul Razak, Group 'D' Peon,
Passport Office, Kozhikode. Applicants

(By Advocate Shri Shafik M.A.)

Vs.

1. Union of India represented by
Secretary to the Government of India,
Ministry of External Affairs,
New Delhi.
2. The Chief Passport Officer &
Joint Secretary (CPV)
Ministry of External Affairs,
New Delhi.
3. The Passport Officer,
Passport Office, Kozhikode. Respondents

(By Advocate Shri R.Madanan Pillai, ACGSC)

The application having been heard on 12th October 2001
the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN

The applicants who commenced their service as Casual Labourer were granted temporary status with effect from 1.9.1993 as per A-2 order. They were regularised on a group 'D' post by order dated 12.4.2000(A3). Consequent on such regularisation, their pay was fixed at Rs.2900/- in the scale of Rs. 2550-55-2660-60-3200 as they have been drawing wages at Rs.2900/- on getting increments after grant of temporary status. While the applicants have been receiving pay on the basis of the said fixation (A4), to their surprise, without notice, impugned order dated 19.7.2000 (A1) has been issued

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retrospectively reducing their basic pay to Rs. 2550 w.e.f. 12.4.2000 the date on which they were regularly appointed. The applicants have challenged the legality, propriety and correctness of this order and has sought to set aside the order declaring that they are entitled to get their pay fixed after granting increments which they have been granted after conferment of temporary status and for a direction to the respondents to disburse the difference in salary recovered consequent to A-1.

2. The respondents seek to justify the impugned action on the ground that the Department of Personnel had issued a clarificatory Memorandum dated 29.1.98 stating that the pay of the casual labourers with temporary status on their regularisation on duty post, should be fixed at the minimum of the scale of pay in the relevant group 'D' post.

3. We have heard the learned counsel on either side. Identical question was considered by the Hyderabad Bench of the Tribunal in O.A.1051/98 which was held that:

The applicants have earned their increments because of their working as temporary status casual mazdoors. Their carrier as temporary mazdoors cannot be washed away when they were regular mazdoors by refixing their pay at the minimum pay scale. We see no justification to reject the case of fixation of pay of the applicants at the time of regularisation on the basis of last pay drawn by them as temporary status as per the guidelines given by them dated 22.12.92.

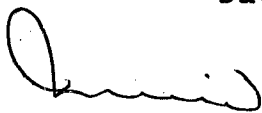
In view of what is stated above, we set aside the impugned letters dated 17/18.6.98 of R-3 (A-1) and also the office memorandum dated 29.1.98 of the Department of Personnel and direct the respondents to continue to pay the applicants in accordance with the pay fixation as was done initially before referring their case to the postal directorate."

The above ruling of the Hyderabad Bench has been followed by this Bench of the Tribunal in O.A.1373/99 to which both of us were parties. As the facts and circumstances of the case are

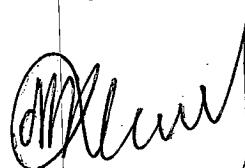


identical with the facts and circumstances of the case of the applicants in O.A.1373/99 and the department is also the same and as the O.M.dated 29.1.98 (R-1) has been set aside, we allow this application, set aside the impugned order A-1 and direct the respondents to restore the pay of the applicants in terms of A-4 and to refund to the applicants the amount if any, recovered from their pay on the basis of the impugned order within a period of two months from the date of receipt of a copy of this order. No costs.

Dated the 12th October 2001.



T.N.T.NAYAR
ADMINISTRATIVE MEMBER



A.V.HARIDASAN
VICE CHAIRMAN

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A P P E N D I X

Applicants' Annexures

1. Annexure A1 : True copy of the order No.KZD/661/95 dated 19.7.2000 issued by the 3rd respondent.
2. Annexure A2 : True copy of the order No.1(35)AD/KZD/95 dated 20.7.1995 issued by the 3rd respondent.
3. Annexure A3 : True copy of the order No,KQZ/661/95-II dated 20.4.2000 issued by the 3rd respondent.
4. Annexure A4 : True copy of the order No.KQZ/661/95 dated 29.5.2000 issued by the 3rd respondent.
5. Annexure A5 : True copy of the representation dated 31.7.2000 submitted before the 2nd respondent.
6. Annexure A6 : True copy of the representation dated 17.10.2000 submitted before the 2nd respondent.
7. Annexure A7 : True copy of the judgment dated 1.1.2001 in OA.1373/99 of this Hon'ble Tribunal.

Respondents' Annexures

1. Annexure R1 : True copy of the order No.49014/4/97-Estt(C) Govt. of India, Ministry of Personnel, PG and Pensions, Department of Personnel and Training, New Delhi dated 29.01.1998.
2. Annexure R2 : True extract of Sl.No.34 at page No.111 of Swamy's monthly news published in the month of February, 2001.

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