

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A.No.63/1999.

Tuesday this the 31st day of July 2001.

CORAM:

HON'BLE MR. A.V.HARIDASAN, VICE CHAIRMAN  
HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER

1. Iype Mathew,  
H.G.Telegraphist,Central Telegraph Office,  
Kottayam.
2. V.K.Bhaskaran Nair,  
Higher Grade Telegraphist,  
Central Telegraph Office,  
Kottayam.
3. Laxmikutty V.Rajan,  
Higher Grade Telegraphist,  
Central Telegraph Office,  
Calicut.
4. K.P.Thankamani,  
Higher Grade Telegraphist,  
Central Telegraph Office, Calicut.
5. Rosily Rappai,  
Higher Grade Telegraphist,  
Central Telegraph Office,  
Calicut.
6. Bhavani S.Kumar,  
Higher Grade Telegraphist,  
Central Telegraph Office, Calicut.
7. Leo S.Lazarus,  
Higher Grade Telegraphist  
Central Telegraph Office,Calicut.
8. C.C.Padmanabha Kurup,  
Higher Grade Telegraphist,  
Central Telegraph Office,  
Calicut.
9. P.K.Leela,  
Higher Grade Telegraphist,  
Central Telegraph Office, Calicut.
10. N.K.Alli Bharathan,  
Higher Grade Telegraphist,  
Central Telegraph Office, Calicut.
11. K.Nirupama,  
Higher Grade Telegraphist,  
Central Telegraph Office, Tellichery.

12. M.Lilly,  
Higher Grade Telegraphist,  
Central Telegraph Office, Calicut.
13. C.R.Sudhakaran,  
Higher Grade Telegraphist,  
Central Telegraph Office, Calicut.
14. G.Easwary,  
Higher Grade Telegraphist,  
Central Telegraph Office, Trivandrum.
15. Mrs. R.B.Nair,  
Higher Grade Telegraphist,  
Central Telegraph Office, Trivandrum.
16. Mrs. K.Kochammini,  
Senior Telegraph Master,  
Central Telegraph Office, Trivandrum.
17. Aleyamma Thomas,  
Senior Telegraph Master(O),  
Telegraph Office, Kochi-682 016.
18. Rappayi K.D.,  
Senior Telegraph Master,  
Central Telegraph Office, Cochin-16.
19. Mrs. Chandrika Prasad,  
Senior Telegraph Master,  
Central Telegraph Office, Kochi-682 016.
20. Mrs. Rita Joseph,  
Senior Telegraph Master(O),  
Wellington Island, Cochin-3.
21. Smt.Sarojini V.Nair,  
residing at Dwaraka, Kalvakulam Road,  
Palakkad-678 011, Higher Grade Telegraphist.  
..Applicants

(By Advocate Sri M.R.Rajendran Nair)

vs.

1. The Chairman, Telecom Commission, New Delhi.
2. The Chief General Manager, Telecom,  
Kerala Circle, Trivandrum.
3. Union of India, represented by Secretary  
to Government,  
Ministry of Communications, New Delhi.
4. Bharath Sanchar Nigam Limited, represented by the  
Chief General Manager, Telecom,  
Kerala Circle, Trivandrum.

.. Respondents

(By Advocate Sri K.R.Rajkumar, ACGSC)




The application having been heard on 31st July 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 21 in number were recruited for appointment as Telegraphists in the Telecommunication Department on various dates during the years 1959 to 1963. They were absorbed as regular employees of the department only subsequently, within a span of three to six years. Before they were appointed on the posts of Telegraphists, they were engaged on daily rate basis as non-departmental telegraphists. After they were regularly appointed they were not given the benefits of the service as Non-departmental Telegraphists(N/D Tls for short) for the purpose of increments in terms of the DG, (P&T) letter No.A1/17/1/47 dated 24.9.47 (A2) and DG(P&T) letter No.TR-15.26/33 dated 31.8.55(A3) conveying Presidential sanction to count the service rendered as N/D Tls for the purpose of drawing increments on subsequent absorption as Cs/Tls. When their claim was rejected, the applicants filed O.A.1533/94. The said O.A. was disposed of by a judgement dated 11.11.94 permitting the applicants to make individual representations along with copies of the relevant orders to the 2nd respondent, Chief General Manager, Telecom, Kerala Circle and with a direction to the 2nd respondent to dispose of the representation and communicate his decision to the applicants. The applicants pursuant to the above directions of the Tribunal, made a joint representation. However, their claim was again rejected by A-8 dated 3.4.95 on the ground that the applicants were not appointed as N/D Tls in the scale of pay of Rs.110-240 for a period of one month. Aggrieved by that order,



the applicants again approached the Tribunal in O.A.1132/95. The Tribunal again permitted the applicants to submit a comprehensive joint representation to the 3rd respondent within three weeks and directing the 3rd respondent to dispose of the representation by a speaking order within four months from the date of receipt of the representation. Applicants again submitted a representation a copy which is at A-10 . However, the 3rd respondent has issued the impugned order dated 13.1.98 (A9) again rejecting the claim of the applicant on the ground that the applicants were not appointed as N/D TLs in the monthly scale of pay of Rs.110-240 for a period of one month or more and therefore, they were not entitled to count their services for fixation of pay and other benefits on their regular absorption.

2. Aggrieved by the rejection of the application, the applicants have filed this application seeking to set aside A-1 and for a declaration that the period of service rendered by the applicants as non-Departmental Telegraphists is liable to be treated as temporary service for the purpose of granting annual increments and other service benefits and for a direction to the respondents to treat the service rendered by the applicants as non-departmental Telegraphists as temporary service for the purpose of annual increments and other service benefits.

3. The respondents in their reply statement contend that the benefit of counting the service as N/D TL for the purpose of drawal of enhanced fixation of pay and other benefits were




available as per orders only to those Non-departmental Telegraphists appointed on monthly scale of pay that as per order dated 9.11.1957 of the DG, P&T first appointment of N/D TLs on monthly rate of pay was banned and that the applicants having been appointed as daily rated N/D TLs after 9.11.57 are not entitled to have their service as N/D TLs counted for any service benefits.

4. We have heard the learned counsel on either side and have perused the pleadings and material placed on record. Shri Hariraj, learned counsel of the applicants invited our attention to the observations contained in paragraph 5 of the order in O.A.1132/95, which reads as follows:

"A.1 order has been passed based on A.2 and A.3 letters dated 24.9.47 and 31.8.55 respectively. Those letters were issued at a time when the concept of equal pay for equal work was not recognised as a fundamental right. The service law has taken much of its course after the issuance of A.2 and A.3. It is a matter that has to be examined whether the applicants have performed identical duties as temporary NDTLs, who were given a scale of pay. A.2 and A.3 letters are to be read in a harmonious way and not in isolation. A harmonious reading of A.2 and A.3 if made, will take us to the position that non-departmental TLs employed or expected to be employed continuously for one month or more should be treated as temporary Telegraphists."

5. Learned counsel vehemently argued that the 3rd respondent before issuing the impugned order, should have considered the claim of the applicants taking into account the observations made in the above paragraph of the judgement and considered whether the service rendered by the non-departmental Telegraphists on monthly rate basis and those non-departmental Telegraphists on daily rate basis were performing identical

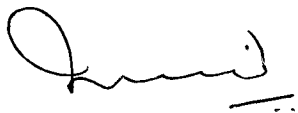
duties or not and then taken a decision. However, we are not persuaded to accept this argument. The applicants in this case are claiming the benefit of counting the service rendered by them as non-departmental Telegraphists on daily rate basis on the basis of the two Government of India orders i.e. A-2 and A-3. As per A-3, the order dated 31.8.55 the benefit of counting service was to be granted only to the non-departmental Telegraphists who are employed on a pay scale identical to the scale of Cs/TLs. Even going by the averments in the application, the applicants in this case were not employed on a pay scale but only on daily wages. Further, it is evident from Annexure R-1 that the engagement of N/D TLs on monthly rate basis was banned from 9.11.1957. The applicants were engaged after 9.11.1957 only and they were engaged on daily wage basis. It was only those non-departmental Telegraphists engaged prior to 1957 and had worked on a monthly scale of pay who were eligible to have their service counted for fixation of pay and increment. Even if the work performed by the applicants as daily rated N/D TLs was similar to that of those N/D TLs engaged prior to 9.11.57 on monthly pay, the applicants would not be entitled to the benefit of Annexure A3 order because that order conferred the benefit only to those N/D TLs who were engaged on a scale of pay equal to that of Cs/TLs. The applicants have not challenged the Annexure A3 on the ground that the benefit was restricted to N/D TLs on scale of pay. It cannot be challenged at this distance of time also. We do not find any



reason to interfere with the impugned order for the order was issued considering the Annexures A1 and A2 and the nature of engagement of the applicants.

In the result in the light of what is discussed above, finding no merit in this application, we dismiss the same, leaving the parties to bear their own costs.

Dated the 31st July, 2001.



T.N.T.NAYAR  
ADMINISTRATIVE MEMBER



A.V.HARIDASAN  
VICE CHAIRMAN

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List of Annexures referred to in the Order.

- A-1: True copy of the Order No.F.No.271-80/97-STN-I dated 13.1.98 issued by the 1st respondent to the applicants.
- A-2: True copy of the Letter No.A-1/17/1/47 dated 24.9.47 issued by the Director General, Posts and Telegraph.
- A-3: True copy of the Letter No. TR-15.26/33 dated 31.8.55 issued by the Director General, Posts and Telegraph.
- A-8: True copy of the order dated 3.4.95 No.STT 16-25/94 issued by the 2nd respondent.
- A-9: True copy of the order dated 5.8.97 in O.A. 1132/95 of this Hon'ble Tribunal.
- A-10: True copy of the representation dated nil submitted by the applicants to the 3rd respondent.