

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 66 of 2000

Wednesday, this the 1st day of November, 2000

CORAM

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

1. K.J. Varghese,
S/o. K.V. Johnson,
Casual Labourer, Office of the
Sub Divisional Engineer (External),
Trichur District,
Residing at 'Kollannur House',
Eddapalam (Via), Pattikad PO,
Trichur District. ...Applicant

[By Advocate Mr. Shafik M.A.]

Versus

1. Union of India, represented by the Secretary,
Ministry of Communications,
Sanchar Bhavan, Ashoka Road, New Delhi-110001
2. The Chief General Manager, Telecom,
Kerala Circle, Trivandrum.
3. The General Manager Telecom,
Trichur SSA, Trichur.
4. The Chairman cum Managing Director,
Bharat Sanchar Nigam Ltd [BSNL],
Sanchar Bhavan, New Delhi. ...Respondents

[By Advocate Mr. T.C. Krishna, ACGSC (R1 to R3)]

The application having been heard on 1st November, 2000,
the Tribunal on the same day delivered the following:

O R D E R

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

The applicant seeks to declare that he is entitled to be engaged as casual labourer on the basis of his seniority and eligibility without any condition as to the days of engagement, to confer all benefits to him consequent on such engagement including temporary status, and to direct the respondents to grant him consequential regularisation as has been given to those who had continued in service with all consequential benefits.

2. The applicant is aggrieved by the refusal of the respondents to engage him for work for more than 100 days in a year. The applicant was engaged as casual labourer by the respondents from the year 1974 onwards. Upto 9-4-1978 he had continuously worked for 1116 days. Subsequently, from 16-8-1978 to 30-5-1981 he was again engaged for 740 days continuously. During the year 1981 he was selected as an approved Mazdoor and was issued with a casual mazdoor card. Thereafter, he had worked continuously for 625 days upto 1-4-1985. Thereafter, he fell ill and upto 1989 could not work. From 1-8-1989 onwards he was again engaged upto 4-4-1990. Thereafter, since there was no work, he was not engaged. As per A1, the engagement is restricted for 30 days at a time and 100 days in a year.

3. Respondents resist the OA contending that as per OM dated 12-2-1999 the powers of all DOT officers to engage casual labourers either on daily or monthly wages irrespective or directly or through contractors has been withdrawn. The maximum period for which an individual labourer can be hired was restricted to 60 days in a year. Subsequently, the same was amended. As per the amended OM, a casual labourer could be engaged upto 30 days at a time and a maximum of 100 days in a year.

4. Mainly the ground relied on by the respondents is R2, the OM dated 15-6-1999, as per which a casual labourer could be engaged only for 30 days at a time and for not more than 100 days per annum. The said OM has already been quashed by a Division Bench of this Tribunal as per order in OA No. 199/2000. So, the main ground relied on by the respondents falls to the ground.

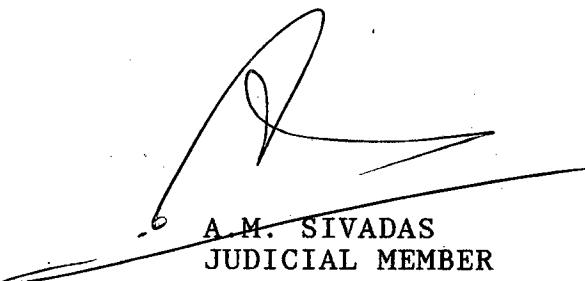
5. In the OA it is specifically stated that only because there was no work at that time the applicant was not engaged. Respondents have denied it by saying that the applicant was not engaged for want of work is contradictory to the averment made by the applicant in para 4.2, wherein he has averred that he could not work from 1-4-1985 due to illness. Whatever be the position, the learned counsel appearing for the respondents submitted across the Bar that the applicant issued notice through lawyer to the respondents being aggrieved on account of non-engagement. The learned counsel appearing for the applicant submitted that it was only after the grant of an interim order by this Bench of the Tribunal. The learned counsel for respondents further submitted that the applicant has not reported for duty from 8-6-2000. It is not necessary for the purpose of this OA to go into all these questions and I am not expressing any opinion on this aspect.

6. Accordingly, it is declared that the applicant is entitled to be engaged as a casual labourer on the basis of his seniority and eligibility without any condition as to the days of engagement and for consequential benefits such as conferment of temporary status and regularisation in accordance with the rules in force.

7. The Original Application is disposed of as above. No costs.

Wednesday, this the 1st day of November, 2000

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A. M. SIVADAS
JUDICIAL MEMBER

List of Annexures referred to in this Order:

1. A1 True copy of the letter No. E5/MAZ/XIV/25 dated 21-9-99 issued by the 3rd respondent.
2. R2 True copy of the OM dated 15-6-1999 of the Assistant Director General.