

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A No. 8 / 2009

Friday, this the 12th day of March, 2010.

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HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER

HON'BLE Ms. K NOORJEHAN, ADMINISTRATIVE MEMBER

G.S.Sreekumar,
Regular Mazdoor,
O/o the General Manager,
Mobile Service, Lukes Lane,
Pulimode, GPO,
Thiruvananthapuram.

....Applicant

(By Advocate Mr U Balagangadharan)

v.

1. The Chief General Manager,
Telecom, Bharat Sanchar Nigam Limited,
Thiruvananthapuram.
2. The Principal General Manager,
Telecom District, Bharat Sanchar Nigam Limited,
Thiruvananthapuram,
3. The Assistant General Manager(Admn),
IMPCS, BSNL, Thiruvananthapuram.Respondents

(By Advocate Mr George Kuruvilla)

This application having been finally heard on 4.3.2010, the Tribunal on 12.3.2010 delivered the following:

ORDER

HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER

The relief sought by the applicant in this case is to direct the respondents to refix his pay in the post of regular Mazdoor with effect from 1.10.2000 taking into account the five increments stated to have been drawn by him during his past service as Temporary Mazdoor and to grant him the consequential benefits.

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2. According to the applicant, he was initially engaged as a Mazdoor under the then Department of Telecom during the year 1979-80. He was disengaged but was enlisted again as Casual Mazdoor on the direction of this Tribunal in O.A.No.1177/1990. Later, he was regularised as a Mazdoor vide Annexure A-1 order dated 10.1.1992. Thereafter he was granted temporary status with effect from 17.11.1992 along with other temporary status Mazdoors vide Annexure A-2 letter dated 31.1.1994. According to him, after the death of his wife on 5.11.1996, he developed serious mental disorder and became a victim of depression and remained on leave for 3 years from 11.4.1997 to 11.4.2000. He submitted that when he reported for joining duty on 11.4.2000, the respondents obtained a letter from him under duress and appointed him only as a new temporary status Mazdoor. When the Department of Telecom was converted as Bharat Sanchar Nigam Limited (BSNL for short), all the temporary status mazdoors and casual labourers were directed to appear before the Selection Committee for regular appointment. Applicant was also accordingly directed to appear for selection vide Annexure A-6 letter of the BSNL dated 19.4.2001. Thereafter, he was permanently absorbed with effect from 1.10.2000 vide Annexure A-9 order dated 12.2.2002. However, when his pay was fixed in the cadre of regular Mazdoor, the past service rendered by him as temporary status mazdoor was not taken into consideration. His representation in this regard was also not considered by the respondents. He has, therefore, challenged the action before the Hon'ble High Court vide Writ Petition(C) No.9776/2007. While disposing of the said petition, the High Court directed the respondents to consider his representation and pass orders in accordance with law. Accordingly, the respondents reconsidered his aforesaid representation and passed the Annexure A-10 order dated 30.5.2007. According to the said letter,



the applicant was engaged as casual mazdoor with effect from 6.2.1992 as per the order of this Tribunal in O.A.No.1177/1990(supra). Subsequently, he was conferred with temporary status from 17.11.1992. During the period of engagement as temporary status mazdoor one is paid only the daily wages by computing the minimum pay and allowances of a Group D official on initial appointment divided by 30 days. On completion of 240 days of work in a period of one year, the wage of a Temporary Status Mazdoor will be enhanced by adding one increment to the above said pay and allowances of a Group D official. In the case of the applicant, the periodical increase in wages was not given, as he did not perform 240 days of work in any of the years subsequent to the conferment of temporary status on him. He performed 103 days of work during the period ended 16.11.1993, 237 days during the period ended 16.11.1994, 91 days during the period ended 16.11.1995 and 41 days during the period ended 16.11.1997. Thereafter, he was completely absent from duty from 17.11.1995 to 16.11.1996. Again, he deserted his work without notices from 17.11.1997 to 11.4.2000. Thereafter, he made a representation dated 11.4.2000 seeking appointment as Temporary Status Mazdoor afresh. Considering his request sympathetically, he was permitted to join duty as Temporary Status Mazdoor on 12.4.2000 forfeiting all his past services vide PGM, Trivandrum Memo No.ST.4201/XII/21 dated 12.4.2000 vide DoT OM dated 29.9.2000 and his pay was fixed at Rs.2550/- in the CDA pay scale of Rs.2550-3200. He was not given any weightage in fixation, as he had no past qualifying service for granting any increment. Since he had no service to his credit for entitling him to be eligible for increment in wages while he was a Temporary Status Mazdoor his pay as Regular Mazdoor as on 1.10.2000 was fixed at the minimum of the scale.

3. We have heard the learned counsel for the parties. It is well settled



position that the increments or enhancements of wages earned by a Temporary Status Casual Mazdoor will be reckoned for fixation of his pay on his regular appointment/absorption in the Department. In the case of the applicant, for earning enhancement of wages/increment he had to put in at least minimum 240 days in a year. From the reply affidavit of the respondents, it is clear that the applicant has not put in the minimum 240 days of service in any of the previous years. Therefore, he has not earned any increments in wages during the period he rendered service as a temporary status Mazdoor. Only earned enhancement of wages/increments can be reckoned for fixation of pay on absorption on regular basis. We, therefore, do not find any merit in this O.A and accordingly the same is dismissed. There shall be no order as to costs.


K NOORJEHAN
ADMINISTRATIVE MEMBER


GEORGE PARACKEN
JUDICIAL MEMBER

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