

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.119/03

Friday this the 31st day of October 2003

C O R A M :

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

G.Parameswaran Nair,
Casual Labourer,
Office of the Divisional Engineer,
Telecom, BSNL, Attingal.

Applicant

(By Advocate Mr.Thomas Mathew)

Versus

1. Union of India, represented by its Secretary, Ministry of Communications, New Delhi.
2. Chairman-cum-Managing Director, BSNL, Sanchar Bhavan, New Delhi.
3. Chief General Manager, Telecom, Kerala Circle, BSNL, Trivandrum.
4. Assistant General Manager (Administration) Telecom District, Trivandrum-23.

Respondents

(By Advocate Mr.Sunil Jose,ACGSC)

This application having been heard on 31st October 2003 the Tribunal on the same day delivered the following :

O R D E R

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

The applicant who started working as Casual labour in the year 1978 and had been engaged for 97 days up to 1980 and 15 days in 1987 earlier filed O.A.1200/91 which along with a number of other cases 1027/91 and connected cases was disposed of by a common order dated 8.4.1993. His application was allowed to the extent of directing that applicant should be included in the list of unapproved casual mazdoors if and when he is registered with

the Employment Exchange, on the basis of the length of casual service rendered during 1979-80 and 1987 and since he is not a fresh hand the ban being not applicable to him, he should be engaged in preference to such unapproved casual mazdoors who have lesser length of casual service as on 7.6.1988 than his and that his case for regularisation would be governed by the scheme promulgated by the respondents as and when he would become eligible. During the pendency of the O.A. the applicant was on the basis of an interim order re-engaged as an unapproved mazdoor as is seen from Annexure A-3 and Annexure A-4. However he was engaged as casual mazdoor for two months and thereafter he was given work intermittently on piece rate quotation basis. The claim of the applicant for grant of temporary status and regularisation has not been considered. Therefore the applicant has filed this application for a declaration that the engagement of the applicant on piece rate quotation basis with effect from 1.5.1993 is arbitrary, illegal and without any legal basis and that the applicant should be deemed to have continued as Casual Labour from 1.5.1993 onwards and for a direction to the respondents to treat the service put in by the applicant from 1.5.1993 onwards as Casual service, for a declaration that he is entitled to temporary status with effect from 1.4.1994 as per the scheme "Casual Labourers Temporary Status and Regularisation" and to declare further that the applicant is similarly situated to applicant in O.A.1723/98 and is senior to him and therefore entitled to temporary status as per priority fixed by the respondents in Annexure A-9 panel.

2. The respondents resist the claim of the applicant on the ground that the applicant having not been currently engaged on 1.10.1989 when the scheme for grant of temporary status and

regularisation Annexure A-13 came into force and having not completed 240 days of service and that the applicant and the claim in parity with Babu who is applicant in O.A.1723/98 because Babu was senior to him and on the direction of the Tribunal a regular casual labour card was issued to him in terms of directions contained in order of the Tribunal in O.A.1121/91.

3. I have carefully gone through the pleadings and materials placed on record and have heard learned counsel on either side. The entitlement of the applicant on the basis of the casual service rendered by him during 1979-80 and 1987 has been clearly mentioned by the Tribunal in its order in O.A.1200/91. The entitlement of the applicant was only to be enlisted in the panel of unapproved casual mazdoors if and when he is registered with the Employment Exchange and to be considered for engagement in preference to such casual mazdoor who has lesser length of service as on 7.6.1988 and to be considered for regularisation as per the scheme promulgated by the respondents as and when he become eligible. There is no case for the applicant that any person who had lesser length of service than him as on 7.6.1988 had been re-engaged as casual labour. The applicant has been issued with a card as an unapproved casual labour (Annexure A-3) and his name has shown as Serial 6 in Annexure A-9 list of unapproved casual labour. Since it has been held by the Tribunal in its order in O.A.1200/91 the ban on engagement of casual labour would not apply to applicant in terms of the direction contained in the order of the Tribunal in 1200/91 if and when casual work would become available the respondents would be bound to engage the applicant in preference to unapproved casual mazdoors who had put in lesser length of service as on 7.6.1988. However the claim of the applicant for grant of temporary status

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and regularisation basing on the scheme (Annexure A-13) is not sustainable because he was neither currently engaged as on 1.10.1989, the date on which the scheme came into force nor had he completed 240 days of service on that date, which is essential for grant of temporary status and regularisation. The Apex Court in Union of India Versus Mohanpal reported in 2002 (4) SCC 573 dealing with a scheme evolved by the Government of India, Department of Personnel in the year 1993 in similar terms held that the scheme being a one time dispensation and not an on going one, the benefit of temporary status available for casual labour who were currently employed on the date of commencement of the scheme and had rendered one years continuous service. The principle in the said ruling is squarely applicable to the fact of this case, as the applicant was not currently employed on the date of commencement of Annexure A-13 and had not completed 240 days of service. Therefore, he is not entitled to the benefit of the scheme. In the light of the above submission the application is disposed of directing the respondents to engage the applicant as and when casual work is available on the basis of the position in Annexure A-9 list of unapproved casual mazdoor in preference to unapproved casual mazdoor who had put in lesser length of casual service than him (2) the claim of the applicant for grant of temporary status and regularisation is rejected. There is no order as to costs.

(Dated the 31st day of October 2003)



A.V. HARIDASAN
VICE CHAIRMAN