

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O. A. No. 121 of 1993.

DATE OF DECISION 26-5-1993

Mr M Divakaran Applicant (s)

Mr MR Rajendran Nair Advocate for the Applicant (s)

Versus

The Chief General Manager, Telecom, Trivandrum & 3 others Respondent (s)

Mr M Gopalan, ACGSC Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. N DHARMADAN, JUDICIAL MEMBER

&

The Hon'ble Mr. R RANGARAJAN, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. To be circulated to all Benches of the Tribunal ?

JUDGEMENT

N Dharmadan, Judicial Member.

According to the applicant he is an approved Casual Mazdoor having prior engagement from 24.1.1980 to 10.7.1983.

Thereafter he was not engaged till 10.7.1988 after condoning the break in service in the light of the representation.

2. The applicant submits that his prior service as Casual Mazdoor under Punalur Sub Division from 24.1.1980 confers the legal right to get re-engagement. He submitted a representation in the year 1988 which was disposed of by the Sub Divisional Officer, Telegraphs, Punalur as per Annexure-III order dated 20.6.1988, rejecting the claim of the applicant. A further representation was also considered and disposed of without

re-engaging him after condoning the break in service. The applicant has produced the Annexure-VI Memo issued by the Divisional Engineer(Admn), Telecom District Manager, Kottayam to show that break in service in various other similar cases were condoned and orders passed in the year 1992. Under these background the applicant has filed this application under Section 19 of the A.T.Act with the following reliefs:

- "(i) To declare that the applicant is entitled to be re-engaged as casual mazdoor and after condoning his break in service and direct the respondents to condone the break in service of the applicant and re-engage him as Casual Mazdoor.
- (ii) Grant such other reliefs as may be prayed for and the Tribunal may deem fit to grant."

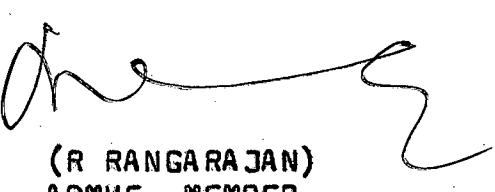
3. The respondents have filed a reply denying the allegations and averments in the OA. They have also relied on the judgement of this Tribunal in OA-1293/92 dated 13.10.1992 and submitted that the OA is to be dismissed in limini at the admission stage itself.

4. The learned counsel for the applicant brought to our notice the recent decision of this Tribunal in OA-1027/91 in which the question of re-engagement and regularisation of casual mazdoors like the applicant was considered in detail. He also submitted that in the light of the judgement, the applicant's claim for re-engagement on the basis of the prior service requires a fresh consideration.

5. The judgement relied on by the learned counsel for the respondents in OA-1293/92 does not apply ⁶⁶ for the facts of this case. In that case the applicant therein worked upto

30.9.1983 and filed his representation on 5.8.1992. Prior to the submission of the representation he did not agitate the matter with the Department. Hence this Tribunal found that the absence of the applicant for a long period, ^{merely} ~~merely~~ a decade, disentitles him to get any relief from this Tribunal and accordingly dismissed the OA. In the instant case the applicant filed a representation in the year 1988 and it has been considered and the reason stated therein does not appear to be satisfactory. He also filed further representation and in the meantime, this Tribunal has passed a judgement in OA-1027/91. In the light of this latest decision of this Tribunal, it is necessary to examine the case of the applicant ^{by} ~~with~~ the competent authority. In this view of the matter, we are satisfied that this application can be disposed of at the admission stage itself with appropriate directions.

6. Accordingly, we admit the application and dispose of the same with the direction to the 1st respondent to consider the case of the applicant in the light of the latest decision of this Tribunal in OA-1027/91 and connected cases and pass appropriate orders, notwithstanding what has been stated in the reply statement by the respondents. No order as to costs.


(R RANGARAJAN)
ADMVE. MEMBER


(N DHARMAADHAN) ^{26.5.93}
JUDICIAL MEMBER

26-5-1993

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