IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O. A. No. 141/92 and 160/92 .

DATE OF DECISION 30.3.93

T.C.Varghese — Applicant (s) in O.A.141/92

N.J.Joshy — Applicant in O.A.160/92

Mr.M.R.Rajendran Nair — Advocate for the Applicant (s) in both the O.As

Versus

The Sub Divisional Officer,Telegraphs, Perumbavoor and three others. — Respondent (s) in O.A.141/92

The Sub Divisional Officer,Telegraphs Aluva and three others. — Respondents in O.A.160/92

Advocate for the Respondent (s)

CORAM : Mr.Ajith Narayanan,ACGSC — Advocate in O.A 141/92

Mr.George C.P.Tharakan, SCGSC — Advocate for the Respondents in O.A.160/92

The Hon'ble Mr. S.P.MUKERJI,VICE CHAIRMAN

The Hon'ble Mr. N.DHARMADAN,JUDICIAL 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

(Hon'ble Shri S.P.Mukerji,Vice Chairman)

Since identical questions of law, facts and reliefs are involved in these two applications, they are being disposed of by a common order as follows.

2. The applicant in the first application(O.A 141/92), according to him commenced his service as a casual mazdoor under the Junior Engineer,Telephones, Kalady on 12.8.87 and continued for 108 days till 30.11.87. He has referred to the muster roll numbers and has produced an attested copy of a chart at Annexure-II with muster roll numbers as an evidence for his such casual employment. According to him after 30.11.87 he was denied employment despite several representations but

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ignoring his claim for re-engagement fresh hands were being engaged by the respondents. His last representation dated 16.7.91 was rejected by the impugned order dated 12.8.1991 at Annexure-I. He has referred to a number of similar cases in which disengaged casual labour like him were directed by the Tribunal for enlistment as approved casual labour for re-engagement. He has also argued that his disengagement had been in violation of Chapter-VA of the Industrial Disputes Act. He has also referred to by name certain casual mazdoors who were engaged in 1991 when their previous engagement had ended in August, 1979.

3. The applicant in the second application(OA 160/92) has indicated that he worked as a casual labour for 175 days between 19.6.86 to 30.4.87 under the Sub Divisioinal Officer, Telegraphs of Alwaye and Perumbavoor. He has also produced an attested copy of the chart in support of his previous engagement. He has also indicated that he was not engaged after 30.4.87 in spite of several representations. His last representation dated 1.8.91 was rejected by the impugned order dated 12.8.91 . His argument is similar to those advanced by the applicant in the first application.

4. The respondents have filed a reply in the first application, i.e, O.A. 141/92 but have not filed any reply to the second application despite several opportunities given to them. The learned counsel for the respondents, however, argued both the cases together on the basis of the reply given in the first application.

5. According to the respondents, the applicants did not file any representation after 1987 and they were engaged for specific work of casual nature. There was a ban on engagement of casual labour after 30.3.1985 and since the applicants had not been engaged before 30.3.85 they cannot claim any benefit on the basis of their casual employment after the ban was imposed. The respondents have stated that no juniors

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have been given the benefit of reengagement as alleged by the applicants. The respondents have stated that the applicants' allegation that casual labour through contractors are being engaged, cannot entitle them to re-engagement, as contract work is given keeping the public interest in view. They have stated that their previous casual employment, according to the applicants' themselves, being of 108 days/175 days , they are not eligible for the benefits under the Industrial Disputes Act. They have referred to the judgment of the Supreme Court in Delhi Development Horticulture Employees Union vs. Delhi Administration, Judgment Today, Vol.1 No.13 February,1992 , in which engagement of casual labour outside the Employment Exchange has been frowned upon.

6. We have heard the arguments of the learned counsel for both the parties and gone through the documents carefully. The impugned order which is identical in both the cases except for the names of the applicants read as follows:-

> " The representation of Shri Varghese T.C. has been carefully considered and it is to be intimated that there is no provision in the rules to re-employ any casual mazdoor whose absence is more than 6 months and rules do not permit any fresh in take of mazdoor after 31.3.85."

The applicants have not produced copies of their last representations of 1991. It cannot therefore be said whether in their last representations they have referred to their previous representations or not. No proof of their previous representations has been produced. If they were denied employment from 1987 and their representations did not bring out any result, they should have moved this Tribunal in 1988 or 1989. It is established law that repeated representations do not give a new lease of life to a delayed case against the Law of Limitation. Besides, their absence from casual employment being more than 6 months and ~~have~~ having not got the absence condoned, their previous casual employment cannot be taken into account. Since they were engaged after the ban

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was imposed, they cannot derive any benefit of reinstatement by virtue of that service. The fact that the respondents at Sub Divisional level are breaking the ban imposed by the Director General does not entitle them to invoke the intervention of this Tribunal to call upon the respondents to violate the ban.

7. In the above light we see no force in these applications and dismiss the same. We make it clear however that this will not disentitle the applicants to seek remedies under the various provisions of the Industrial Disputes Act in accordance with law and if so advised. There will be no order as to costs.

30.3.93.

(N.DHARMADAN)
JUDICIAL MEMBER

30.3.93

(S.P.MUKERJI)
VICE CHAIRMAN

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