

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 149 of 1999

Thursday, this the 15th day of November, 2001

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER

1. M. Sreenivasan, S/o K. Raghavan,
Bearer, Telephone Exchange
Cooperative Canteen, ThalasseryApplicant

[By Advocate Mr. M.R. Rajendran Nair]

Versus

1. Union of India, represented by
Secretary to Government,
Ministry of Communications, New Delhi

2. The Director of Canteens, Department of
Personnel and Training, Ministry of
Personnel, Public Grievances and Pension,
Sasthri Bhavan, New Delhi.

3. The Chief General Manager, Telecom,
Kerala Circle, Trivandrum

4. The General Manager, Telecom, Kannur

5. Bharath Sanchar Nigam Limited, represented
By the Chief General Manager, Telecom,
Kerala Circle, TrivandrumRespondents

[By Advocate Mr. K. Kesavankutty, ACGSC]

The application having been heard on 15-11-2001, the
Tribunal on the same day delivered the following:

O R D E R

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

The applicant claiming that he had worked in the
Telephone Exchange Cooperative Canteen, Thalassery for 931 days
from 1988 to 31-12-1994 as a casual mazdoor as per the
certificate issued by the Sub Divisional Engineer, Cross Bar
Maintenance, Thalassery produced at Annexure A2, made several

✓

representations to the Chief General Manager, Telecom, Kannur seeking that he be regularised as a Government servant with effect from 1-10-1991 coming to know that the Chief General Manager, Telecom, Trivandrum had accorded sanction for creation of two posts of Bearers. The applicant did not get any response to the representations. In the meanwhile, the applicant found that one P.Muralee who was similarly situated like him approached this Tribunal filing OA 124/96 and got a declaration that he is entitled to be regularised as a Government servant with effect from 1-10-1991. He made further representations seeking similar dispensations and an order appointing him as a regular Government servant. As there was no response to those representations, the applicant approached this Tribunal by filing OA 1170/98. That OA was disposed of directing the 3rd respondent to consider the representation and to pass appropriate orders. In obedience to the above direction, the 3rd respondent has issued the impugned order (Annexure A1) turning down the request of the applicant stating that the applicant was not a regular casual mazdoor, that he was not similarly placed like P.Muralee, that he was intermittently engaged for few days as and when regular employee in the Canteen was absent and that as the applicant is now working on contract basis his quotation being accepted as the lowest, he is not entitled to be regularised as a regular Government servant as claimed by the applicant. Aggrieved by the same, the applicant has filed this application seeking to set aside Annexure A1 and for a declaration that he is entitled to be absorbed as regular Central Government employee with effect from 1-10-1991 and for a direction to the respondents to absorb him as regular Central Government employee with effect from 1-10-1991 with all consequential benefits.

2. Respondents resist the claim of the applicant on the grounds that the applicant was not a casual labourer, that he is not entitled to be regularised with effect from 1-10-1991 as he was not similarly placed like P.Muralee, that the certificate (Annexure A2) produced by the applicant showing that he was engaged is a bogus document, that Sri Varghese Cherian who is alleged to have issued Annexure A2 certificate has denied to have issued any such certificate and that the whole case of the applicant is false and therefore, he is not entitled to any relief.

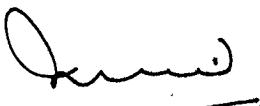
3. We have heard the learned counsel on either side and have meticulously gone through the pleadings and materials placed on record. The whole basis on which the applicant has built his case is Annexure A2, the certificate alleged to have been issued by the Secretary of the Canteen. From the reply statement and from Annexure R4(b)(ii) it is seen that Varghese Cherian who is alleged to have issued Annexure A2 certificate has vehemently denied to have issued Annexure A2. The applicant has not filed any rejoinder. The continued engagement of the applicant with effect from 1998 onwards is, as we seen from the documents produced by the respondents, on the basis of his lowest quotation [Annexure R4(c), R4(d) and R4(e)].

4. As the applicant was not a regular employee in the Canteen as on 1-10-1991, the prayer of the applicant that he is entitled to be absorbed as a regular Government servant with effect from that date cannot be sustained. Further, the very basis of applicant's claim is the certificate Annexure A2, the genuineness of which has been disputed by the respondents and

as the alleged signatory to it has emphatically denied to have signed and issued such a certificate, we are of the considered view that the applicant is not entitled to any relief.

5. In the light of what is stated above, the application fails and is dismissed leaving the parties to bear their costs.

Thursday, this the 15th day of November, 2001


T.N.T. NAYAR
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

ak.

APPENDIX

APPLICANT'S ANNEXURE

1. Annexure A1: True copy of the Order No.LCIII/ OA-1170/98 dated 9.12.98 issued by the 3rd respondent.
2. Annexure A2: True copy of the Certificate No.TTEECC/GC/1992-95/ dated 20.1.95 issued by the Sub Divisional Engineer, Cross Bar Maintenance, Telicherry to the applicant.
3. Annexure A3: True copy of the representation dated 28.1.98 submitted by the applicant to the 4th respondent.
4. Annexure A4: True copy of the representation dated 18.4.98 submitted by the applicant to the 4th respondent.
5. Annexure A5: True copy of the Appointment Order No.E6/92-08/SDE (Auto)I/CE/97 dated 1.1.98(mistakenly written as 1.1.97) issued by the Sub Divisional Engineer, Auto II, Kannur.
6. Annexure A6: True copy of the Order dated 7.10.97 in O.A.124/96 on the file of this Honourable Tribunal.
7. Annexure A7: True copy of the representation dated 3.6.98 submitted by the applicant to the 3rd respondent.
8. Annexure A8: True copy of the final order dated 18.8.98 in O.A.1170/98 on the file of this Honourable Tribunal.
9. Annexure A9: True copy of the Govt. order dated 29.1.92 No.12/5/91-Dir(C) issued by the 2nd respondent.

RESPONDENT'S ANNEXURE

1. Annexure R4 (a) (i) and (ii): True copy of the letter No. Legal/CE/CAT-EKM/0A.149/99/9 dtd. at Cannanore-2 dated 12.4.1999 addressed by the fourth respondent to Varghese Cherian SDE enclosing a copy of the experience certificate produced by the applicant.
2. Annexure R4(b) (i) and (ii): True copy of the letter No. X-1/AGM (A)/GENL/99-2000/16 dated 27.4.1999 from AGM(admn) O/o GM Telecom Thiruvalla along with the report dated, 23.4.1999 from Sri. Varghese Cherian SDE, Thiruvalla addressed to the fourth respondent.
3. Annexure R4(c): True copy of the offer of Shri M.C. Shamith made before the Sub Divisional Engineer, Telephone Bhavan, Tellicherry dated 22.12.1997.
4. Annexure R4(c) (c): English version of Annexure R4(c).
5. Annexure R4(d): True copy of the offer of Shri K. Ajith made before the sub Divisional Engineer, Telephone Bhavan Tellicherry, dated 15.12.1997.
6. Annexure R4(d) (d): English version of Annexure R4(d).
7. Annexure R4(e): True copy of the offer dated 20.12.1997 of Sr. M. Sreenivasan (Applicant) made before the Sub Divisional Engineer, Telephone Bhavan, Tellicherry.
8. Annexure R4(g): True copy of the Extract of the Judgement in OA.2/2001 on the file of the Central Administrative Tribunal, Kolkatta Bench.

.....