IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.170/93

Date of decision: 11-8-1993

KM Skariah   Applicant

Mr PR Padmanabhan Nair   Advocate for applicant

Versus

1   Chief General Manager
    Telecommunications,
    Thiruvananthapuram.

2   Superintendent
    Central Telegraph Office
    Kottayam

3   Director General
    Deptt. of Telecommunications,
    New Delhi   Respondents

Mr S Krishnamoorthy, ACGSC   Advocate for respondents

CORAM

HON'BLE MR N DHARMADAN, JUDICIAL MEMBER
AND
HON'BLE MR R RANGARAJAN, ADMINISTRATIVE MEMBER

JUDGMENT

N DHARMADAN, J.M

Applicant, who retired as a Higher Grade Telegraphist
from the Central Telegraph Office, Kottayam on 28.2.93,
is aggrieved by the non-inclusion of his past casual
service from 1.8.61 to 30.4.66 for the purpose of calculating
pensionary benefits.

2   According to the applicant, he worked as non-
Departmental Telegraphist during the period from 1.8.61
to 30.4.66 in the Central Telegraph Office, Kottayam.
Applicant has produced Annexure A2 service card to prove
his past service from 1961 to 1966 and he submitted that if
the above period is also taken into consideration , he

would xxxxxxxxxxxxxxxxxxxxxxxx have earned more
benefits and accordingly he filed Annexure A5 representation
on 20.7.83 which was turned down by Annexure A6 order
dated 26.7.83. Applicant has filed another representation
before Respondent-1 at Annexure A7 dated 3.8.92 for
getting same benefits before his retirement. That was
rejected by the impugned order at Annexure A1. The
order which reads as follows:-

> " I am directed to inform you that NO TL
> service on daily wages cannot be counted
> for pension purpose, as per the existing
> rules. The official may be informed
> accordingly."

3   Respondents have filed a reply statement.They
relied on Annexure R1 instructions to contend that
the applicant's claim cannot be granted.

4   Applicant has filed a rejoinder and produced
therewith Annexure A10 decision of the Government for
getting the benefit of service rendered by government
employee prior to regular absorption, which contains
the following conditions for grant of the benefits.

> "(a) Service paid from contingencies should
> have been in a job involving whole-time
> employment (and not part-time for portion
> of the day).
>
> (b) Service paid from contingencies should be
> in a type of work or job for which regular
> posts could have been sanctioned, e.g.;
> Mails, Chowkidars, Khalasis, etc.
>
> (c) The Service should have been one for which the
> payment is made either on monthly or daily
> rates computed and paid on a monthly basis
> and which though not analogous to the
> regular sacle of pay should bear some relation
> in the matter of pay of those being paid for
> similar jobs being performed by staff in
> regular establishments.

(d) The service paid from contingencies should
have been continuous and followed by
absorption in regular employment without
a break.

(e) Subject to the above conditions being
fulfilled, the weightage for past service
paid from contingencies will be limited to
the period after 1st January, 1961, for
which authentic records of service may be
available."

5   Having heard the learned counsel, we are satisfied

that the applicant's claim for calculation of his earlier

service from 1961 to 1966 was not considered for inclusion

in his total service in accordance with the relevant rules

and decisions.   From a reading of Annexure A10, it can be

seen that the applicant's claim for full pensionary

benefits, including his past service can be sustained.   Since

there was no consideration of the case of the applicant in

proper perspective in the light of the relevant rules and

decisions, we are of the opinion that Annexure A1 cannot

be sustained.   It only states that casual service rendered

by the applicant cannot be counted for the purpose of

calculating pensionary benefits ' as per the existing rules'.

It is not clear as to what are the rules which prevented

the respondents from including the past service of the

applicant from 1961 to 1966 in his total service for

granting all pensionary benefits. The decisions rendered

by the Supreme Court and this Tribunal in similar cases

support the case of the applicant for addition of his past

services prior to 1966, in the light of the relevant

instructions and orders, including Annexure A10.   Hence,

according to us, the applicant is entitled to claim pensionary

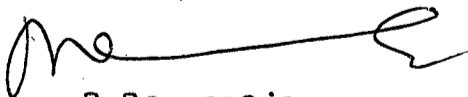benefits, taking into account his past service alongwith

the regular service. According to applicant, he has in his credit a total service of 26 years. This aspect requires verification by the competent authority.

6   In view of what has been stated above, we are of the opinion that Annexure A1 order cannot be sustained. However, we are satisfied that the matter requires further examination by the first respondent, in accordance with the decision of the Supreme Court and this Tribunal as also the instructions contained in Annexure A10.

7   Having regard to the facts and circumstances of the case, we are satisfied that the application can be disposed of with appropriate direction.

8   The leanred counsel for the applicant submitted that he will file a detailed representation producing therewith the relevant decisions in support of his claim. We permit him. This shall be done within a period of three weeks from the date of recipt of a copy of this judgment. If such a representation is received by the first respondent, he shall consider and dispose of the same in accordance with law.

9   Application is disposed of as above. There will be no order as to costs.

R Rangarajan
Administrative Member

N Dharmadan   11, 8·93
Judicial Member

11-8-93

List of Annexures:

Annexure A1	:	Impugned order.
Annexure A2	:	Copy of letter No.E3/188 dated 5.5.82 from Superintendent, CTO, Kottayam.
Annexure A5	:	Copy of representation dated 20.7.83.
Annexure A6	:	Copy of letter No.ST/INCRT/83 dated 26.7.83 from SSTT, Trivandrum.
Annexure A7	:	Copy of representation dated 3.8.92.
Annexure A10	:	Copy of OM No.F.12(1)-E.V/68, dated 14.5.68 and OM No.12011/1/85-Est(C) dated 10.3.1986.
Annexure R1	:	Copy of letter No.209/6/63-STB dated 26.2.65 issued by Dir Genl., P&T.

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