

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.NO. 178/2003

DATED, THIS THE 11TH DAY OF NOVEMBER 2005

C O R A M

**HON'BLE MRS. SATHI NAIR, VICE CHAIRMAN
HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER**

K.P. Kamalakaran S/o Parameswara Kurup
Group-D, Postal Stores Depot
Thiruvananthapuram
residing at Kirans, Oorupoika Via
Kuzhuvallam, Attingal.

..... Applicant

By Advocate Mr. Vishnu S. Chempahanthiyil

Vs.

1 Superintendent of Postal Stores Depot
Thiruvananthapuram.

2 Chief Postmaster General
Kerala Postal Circle
Thiruvananthapuram.

3 Director General,
Postal Department
New Delhi.

4 Union of India represented by its Secretary
Ministry of Communications
New Delhi.

..... Respondents.

By Advocate Mr. TPM Ibrahim Khan, SCGSC

ORDER

HON'BLE MRS. SATHI NAIR, VICE CHAIRMAN

The applicant in this O.A. is claiming to count his earlier daily wage service as regular service for purpose of pension, increment and seniority. According to him on the basis of his seniority as an ED Agent he was posted as a Group-D w.e.f. 22.3.1999 and continued as such till

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14.7.2000 when his appointment was terminated vide Annexure A2 order dated 14.7.2000. Aggrieved by the termination of services, the applicant and five others filed O.A. 827/2000 before this Tribunal. While the OA was pending the applicants and others were appointed on regular basis w.e.f. 24.10.2000. The applicant joined on 4.10.2000 and is continuing. However the respondents have not taken into account his earlier service including the service from 23.3.2000 till 14.7.2000 while considering them for regular appointment. The applicant requested for regularisation from 14.7.2000 to 4.10.2000 when he was inducted continuously on daily wage wise on all working days. It is also claimed that his adhoc appointment was on the basis of seniority against a permanent vacancy after completing all pre-appointment formalities. The applicant has therefore prayed for the following reliefs:

- 1 Call for the records and quash Annexure A9
- 2 Declare that the applicant is entitled to have his daily wage service rendered from 14.7.2000 to 24.10.2000 treated as continuous regular service and direct the respondents to take action accordingly.
- 3 Direct the respondent to treat the period of service rendered by the petitioner prior to regular appointment vide Ext. P4 as service for purpose of pension, increment and seniority.
- 4 Any other further relief or order as this Hon'ble Court may deem fit and proper to meet the ends of justice.
- 5 Award the cost of these proceedings.

2 The respondents have averred that the facts submitted by the applicant are not correct. The applicant was engaged on purely adhoc basis by Annexure A1 order and his services were terminated by Annexure A-7 order dated 14.7.2000 and his appointment was purely temporary and the adhoc appointment could not be continued beyond one year. The applicant was again appointed on 20.10.2000 on temporary basis by Annexure R-1 order and in pursuance of this order the applicant reported on duty only on 29.1.2001 as evident by the charge report at Annexure R-2. It is not correct to say that the applicant joined on 4.10.2000 as stated by him in Annexure A5. The respondents have also produced copies of the relevant pages of the Service Book of the applicant to show that he has joined the post on temporary basis from 29.1.2001 only. The O.A. 827/2000 filed by the applicant and others was

disposed of by the Tribunal only directing the Chief PMG may consider the representations submitted by the applicants and a speaking order issued. Therefore the question of termination of the adhoc appointment ^S have already been settled. The applicant worked from 17.7.2000 to 22.7.2000 on daily wages and this period cannot be treated as service. They further submitted that the eligibility of the candidate was assessed and the candidates were allotted by the Superintendent of Post Offices vide Annexure A4 order dated 17.10.2000 and all appointments made prior to that date were on adhoc basis and such services cannot be counted for any purpose. Hence the OA is devoid of any merit and deserves to be dismissed.

3 We have gone through the pleadings and heard the learned counsel for both sides. The applicant was appointed on a purely adhoc basis vide Annexure A1 order and his services terminated as the adhoc appointment could not be continued beyond one year as per Annexure A2 order. Though the applicant had approached this Tribunal along with others in OA. 827/2000 for regularisation of the service no direction was given on this account and the applicants were directed to prefer a representation before the competent authority which has now been rejected by the impugned order. It is seen from the reply filed by the respondents that after termination he was appointed on daily wages on 17.7.2000 to 23.7.2000 and not till his regular appointment on 24.10.2000 as claimed by him. It is further pointed out now that even though he was appointed as Group-D on regular basis again on temporary basis w.e.f. 20.10.2000 by Annexure R1 order he chose to join the post only on 29.1.2001. Evidently during this period from 23.7.2000 to 29.1.2001 he has not rendered any service either provisional or on daily wage. Annexure A5 has been submitted by the applicant to show that he assumed charge of the Group-D post in accordance with telephonic orders on 4.10.2000. It does not contain any entries in the relevant columns which are all blank and can not be given any credence. Therefore, the prayer of the applicant to consider his service from 14.7.2000 to 24.10.2000 is not supported by any evidence to the fact that he has actually rendered any service during this period. On the other hand on his own

admission even the service rendered from 14.7.2000 to 24.10.2000 is on daily wages. There is no rule permitting that daily wages service can be counted as regular service. The learned counsel for the applicant submitted that in similar OA. 613/2000 the Tribunal has directed the service of the applicant therein who was appointed on ad hoc basis against a regular vacancy may be considered for regularisation. However, on a perusal of the same we find the case referred to by the counsel stand entirely on a different footing. There, the applicant had continued on an adhoc post, the very same post against which he was considered for regular appointment and it was only because of a ban on recruitment that his regularisation could not be considered by the respondents. The adhoc service of the applicant herein was terminated and after working for some time on daily wages he was considered afresh for a regular vacancy in Group-D again on a temporary basis. Therefore the applicant in this case cannot claim any benefit on the basis of the judgment in O.A. 613/2003.

4 In this view of the matter the prayer of the applicant is devoid of any merits hence we dismiss the OA. No costs.

Dated: 11.11.2005


GEORGE PARACKEN
JUDICIAL MEMBER


SATHI NAIR
VICE CHAIRMAN

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