

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. No. 192/2000

THURSDAY, THIS THE 13th DAY OF DECEMBER, 2001.

C O R A M

HON'BLE MR. G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

1. P. Velayludhan Nair, Vellaylil Veedu
Kadavoor P.O.
2. Ajaya Kumar C. Ajaya Bhavan
Mevanakonam, Kalluvathukkal P.O.
Kollam
3. Girish Kumar J., Thannivila Veedu
Mevanakonam, Kalluvathukkal P.O.
Kollam
4. Chandran V., Thoppilkizakkathil
Mevanakonam, Kalluvathukkal P.O.
Kollam
5. Binu S., Thundil Puthenveedu
Mevanakonam, Kalluvathukkal P.O.
Kollam
6. K. S. Asokan, Padinjatte Kunnuvillaveedu
Mevanakonam, Kalluvathukkal P.O.
Kollam
7. R. Udayakumar, Syam Nivas, Veliyam P.O.
8. Priji M.S., Maya Nivas, Veliyam West P.O.
9. S. Salim Kumar, Sreevilasam
Mevanakonam, Kalluvathukkal P.O.
Kollam
10. C.S. Harikrishna Panicker, Aswathi Bhavan
Mevanakonam, Kalluvathukkal P.O.
Kollam

By Advocates Mr. Thottathil B. Radhakrishnan, Sreekumar K.S.,
and George Varghese Perumpallikuttayil

Vs.

1. Union of India represented by
its Secretary
Ministry of Communications,
New Delhi.
2. General Manager,
Telecommunications,
Kollam District
3. Junior Telecom Officer
Telephone Exchange
Parippally-691 574

4. Chairman & Managing Director
Bharathiya Sanchar Nigam Ltd..
Sanchar Bhavan
Ashok Marg
New Delhi.

5. General Manager
Bharathiya Sanchar Nigam Ltd.
Kollam

By Advocate Mr. N. Mahesh, ACGSC for R 1-3

The Application having been heard on 21.11.2001 the Tribunal delivered the following on 13.12.2001.

O R D E R

HON'BLE MR. G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

Applicants ten in number claiming to be empanelled workers under respondents 1 to 3 filed this Original Application seeking the following reliefs:

(i) To direct respondents 1 to 3 to engage only the empanelled workers including the applicants in the NPC works in connection with the expansion of lines under the control of the respondents particularly the third respondent.

(ii) To direct respondent No. 2 to consider and take appropriate action on the facts and complaints stated in Annexure A-5 representation and to provide work for the applicants to the exclusion of illegitimate passing off of works as stated in the said representation.

(iii) To issue such other directions and grant such other reliefs as may be deemed fit and necessary to render justice to the applicants and

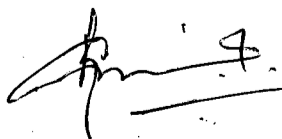
(iv) To award costs of these proceedings to the applicants.

2. According to the averments in the Original Application the applicants were engaged for Chathanoor line works on different occasions and were entitled to do such work to the exclusion of others and they had been so serving the respondents 1 to 3. While empaneled workers were enlisted in the Department the agreement was that the works in connection with expansion (NPC) would be done only through empaneled mazdoors. However, with ulterior motive of making money, the officers in charge of NPC works particularly under the third respondent were employing stooges of exchange staff

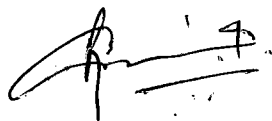


unauthorisedly. The nominees and close relatives of some of the exchange staff were engaged with the blessings of the higher officials. The empaneled workers including the applicants were pressurized to get the bills signed through them under threat of continued unemployment and termination. However, quiet often bills were drawn up in the name of fictitious persons or in the name of relatives of the staff who were never available for any such works. In support of their allegations they enclosed A1(a), A1(b) and A1(c) true copies of quotations dated 11.12.1998 to 15.12.1998 and from 19.12.98 to 20.12.98 issued by Sri P. Chandrabose to Sri P. Pankajakshan. They alleged that Chandrabose was the son of Shri P. Pankajakshan and Chandrabose was only a stooge of the others. They also produced A-3 and A-4 statement of expenditure incurred by Shri P. Pankajakshan for the work done from 11.12.98 to 17.12.98 and 19.12.98 to 20.12.98. According to them the rate to be paid for the work to be done through the empaneled mazdoors like the applicant was Rs. 112/- per day. They alleged that the exchange staff made unlawful gain by paying their nominees around Rs. 50/- and appropriating the balance. The applicants made individual representation to the second respondent. They submitted true copy of one such representation dated 8.1.2000 made by the 9th applicant as Annexure A-5. They also enclosed A-6 copy of the report of the Desabhimani daily dated 16.10.1990 as Annexure R-6(a).

3. Respondents filed reply statement resisting the claim of the applicants. According to them the Original Application was neither maintainable in law nor in facts and was devoid of any merits. They averred that the applicants had approached this Tribunal misrepresenting the facts. There was no Exchange-wise empaneling of workers either in



Paripally Telephone exchange or any of the Telephones Exchanges in Kollam SSA. During bulk release of new phone connections (NPC) the respondents had entrusted some of the related works to contractors in accordance with the provisions of Rule 418 of Post and Telegraph Manual Vol.II in order to complete the target work in time. They averred that out of the 10 applicants only 5 viz. applicants 2 to 6 were contractors engaged by the Phone Mechanics for new phone connection works for short duration. Others had never been engaged by the department for any of the works. They also submitted that applicants had not produced any valid proof that they were engaged for work for Parippally Exchange or anywhere in the department. The five applicants were piece work holders (contractors) engaged for short periods for works of casual nature at Paripally Exchange. Piece work holders would be discharged at the discretion of the executive functionaries and matters concerning piece works and contract works were falling outside the scope of judicial review by this Tribunal. The claim of the applicants was also hit by Limitation. They denied that the applicants were empaneled workers. They were not empaneled in Chattannoor Sub Division or any of the Sub Divisions in Kollam SSA. They were not even applicants for empanelment in response to the notification dated 27.2.95 issued by the Chief General Manager, Telecommunications, Kerala Circle, Trivandrum in accordance with the directions of this Tribunal 's order dated 20.12.94 in O.A. 1402/93 and connected cases. A-1 series showed clearly that the piece works were awarded by contract on specific rate quoted and approved by the subordinate of the 3rd respondent. The revised daily rates were not applicable to contractors. After awarding works to contractors payment would be made to them on satisfactory completion of the work duly verified by the respondents



either direct or through their subordinates in accordance with rules on the subject. A3 to A6 series were neither related to the applicants nor have any relevance with the relief sought for in the Original Application. The applicants did not have any locus standi to proceed against the respondents. The applicants were neither recruited or appointed by any departmental authority. In terms of R-1(b) and R-1(c) dated 22.6.88 fresh recruitment of Casual Labourers for any casual work were totally banned since 22.6.88. There were no justified posts or regular vacancies for these works. Due to ban on recruitment of casual labourers the respondents had to resort to appoint contract workers for casual work in accordance with provisions of Rule 418 of Post and Telegraph Manual Vol. II and the said rule permit adoption of piece works and contract works. The executive functionaries were at liberty to adopt such kind of works in the exigencies of service and dispensing with such workers was also within their powers. As such there was no infringement on any of the legal rights of the applicants or violation of any of the constitutional provisions.

4. Applicants filed rejoinder and respondents filed additional reply statement.

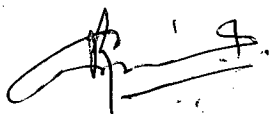
5. Heard learned counsel for the parties. Learned counsel for the applicants took me through the facts as stated in the Original Application.

6. I have given careful consideration to the submissions made by the learned counsel for the parties and the rival pleadings and have also perused the documents brought on record.

A handwritten signature in black ink, appearing to be 'R. S. S.', with a horizontal line underneath.

7. Even though in the Original Application the applicants claimed that they were empaneled workers they have not produced any proof in support of their claim that they were empaneled workers. From R-1(a) dated 30.3.99 issued by the Assistant General Manager, Telecom District, Kollam circulating the details of applications received in response to the news paper notification dated 7.3.95 published in the Malayala Manorama, Mathrubhoomi, Kerala Kaumudi and Desabhimani dailies, circulating sub division wise list Part-A of applications filed for enlistment on the basis of general guidelines evolved by this Tribunal as also in accordance with the conditions stipulated in the said Newspaper notification Part-B and Part (C) lists of applicants who were found eligible and not eligible for empanelment along with reasons thereof respectively, I find the applicants herein had not applied in response to the notification. When such is the case, I am of the view that the applicants' claim that they are empaneled workers is without any basis. Even in the rejoinder filed by them they do not aver that they are empaneled maazdoors. They admit that they were engaged on casual basis by the Department and their benefits were released to them after obtaining their signature in a register by the third respondent. They had not denied that they were engaged on contract basis as piecework holders. Para 418 of the P&T Manual Vol.II reads as under:

"418. The recognised systems for carrying out work, otherwise than by the employment of daily labour, are "Piece-work" and "Contract work". Piece-work is that for which only a rate is agreed upon without reference to the total quantity of work to be done, or the quantity to be done within a given period. The term "Contract" as used in this Manual does not include agreements for the execution of work by piece-work, nor does it include mere ordinary purchases of materials or stores. All work done or supply made under agreement is termed "Contract" and in agreements for such work, which should invariably be in writing, there should generally be a



stipulation as to the quantity of work to be done or material to be supplied, and the time within which the work or the supply is to be completed."

I find that in A-1 series of Annexures produced with the O.A, the descriptions of the works are given and amounts agreed to be paid on completion of the works are stated. These would indicate that the works included therein are piece-rate works. The respondents submitted that the field officials were empowered to recruit new recruits to do special item of work and claim payment for the same. This had not been denied by the applicants. More over, I am of the view that whether a work should be done on contract basis or departmentally or by casual labourers engaged by the Department are all decisions to be taken by the respondents and are generally not susceptible to judicial review. The applicants have not produced any material to show that any of their legal rights had been infringed.

8. In the conspectus of facts as brought out above I find there is no merit in this Original Application and hold that the applicants are not entitled for the reliefs sought for. Accordingly, I dismiss this Original Application with no order as to costs.

Dated the 13th December, 2001.



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER

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APPENDIX

Applicants' annexures

- A1(a) True copy of the quotation dated 11.12.98 issued by Sri P. Chandrabose to Sri P. Pankajakshan
- A1(b) True copy of the quotation dated 16.12.98 issued by Sri P. Chandrabose to Sri P. Pankajakshan
- A1(c) True copy of the quotation dated 18.12.98 issued by Sri P. Chandrabose to Sri P. Pankajakshan
- A2(a) True English translation of the document marked as Annexure A1(a)
- A2(b) True English translation of the document marked as Annexure A1(b)
- A2(c) True English translation of the document marked as Annexure A1(c)
- A3 True copy of the statement of expenditure incurred by Sri P. Pankajakshan for works done from 11.12.98 to 15.12.98
- A4 True copy of the statement of expenditure incurred by Sri P. Pankajakshan for works done from 19.12.98 to 20.12.98
- A5 True copy of the representation dated 8.1.2000 made by the ninth applicant to the second respondent.
- A6 True copy of the report dated 16.10.99 in the Deshabimani daily
- A6(a) True English version of Annexure A-6 paper report.

Respondents' Annexures

- R1(a) True copy of the list No. STE/Empanelment/98/99/12 published by the second respondent dated 30.3.99.
- R1(b) True copy of the order No. 270/6/84-STs dated 30.3.85 issued by the P&T Department
- R1(c) True copy of the order No. Rectt./63-1/Rlgs/86 dated 29.6.88 issued by the 2nd respondent.