

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.196/04

Friday this the 25th day of February 2005

C O R A M :

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

K.P.Jayaprakash,
S/o.Pankajakshi Panicker,
Casual Mazdoor Head Postoffice, Ernakulam.
Residing at Puthanmadam, Thuravoor P.O.

Applicant

(By Advocate Mr.M.R.Hariraj)

Versus

1. Superintendent of Post Offices,
Ernakulam Division, Ernakulam.
2. Post Master General,
Central Region, Kochi.
3. Chief Post Master General,
Kerala Postal Circle, Trivandrum.
4. Union of India represented by Secretary
to Government of India,
Ministry of Communications, New Delhi.

Respondents

(By Advocate Mr.T.P.M.Ibrahim Khan,SCGSC)

This application having been heard on 25th February 2005 the Tribunal on the same day delivered the following :

ORDER

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

The applicant commenced service as a Casual Labourer in the foreign Post Office, Kochi in 1984 and worked till 6.4.1990. Since he was denied engagement thereafter he filed O.A.1513/91. The O.A was disposed of by judgment dated 4.2.1992 directing the respondents to engage the applicant in preference to outsiders and consider his claim for regularisation. However the applicant was not engaged and his claim for regularisation was rejected by Annexure A-3 on the ground that he has not

completed 240 days in any year. He challenged Annexure A-3 in O.A.1363/97. During the pendency of the said O.A the applicant was engaged as a Casual Mazdoor. The O.A was disposed of by order dated 18.2.1999 directing the respondents to consider the regularisation of the applicant. Pursuant to the judgment in O.A.1363/97 the representation of the applicant Annexure A-5 was considered and rejected by Annexure A-6 order on the ground that he had not completed 240 days in a year. The applicant challenged the said order in O.A.894/99. Pursuant to an interim order passed in M.A.1086/99 the applicant was given engagement. However the original application was dismissed by order dated 19.2.2002 for the reason that the applicant did not establish his right for grant of temporary status and regularisation. Since the applicant was continued to be engaged he made representation on 14.1.2004 claiming temporary status on his claim that he had completed 240 days in the year 2000, 2001 & 2003. But the applicant was disengaged and an ED Agent was engaged. He had made another representation dated 23.12.2003 seeking reengagement which was rejected by Annexure A-14 order dated 22.1.2004 stating that he would not be given any preference for engagement. Aggrieved the applicant has filed this application seeking to set aside Annexure A-14 and for a direction to the respondents to consider the applicant for grant of temporary status and regularisation.

2. Respondents resisted the claim of the applicant on the ground that on account of diminution in work there is no need to engage casual labourers and that as the applicant has not completed 240 days of service before 12.4.1991 the preference given to the applicant on the basis of an interim order is no more available as the original application 894/99 has been dismissed. It has also been contended that as the applicant had not completed 240 days prior to 12.4.1991 he is not entitled to the grant of

temporary status. The respondents contend that Group D posts are to be filled in accordance with recruitment rules considering the casual labourers with temporary status and E.D.Aagents and therefore the applicant who is not entitled to any right has no right to claim either re engagement or temporary status.

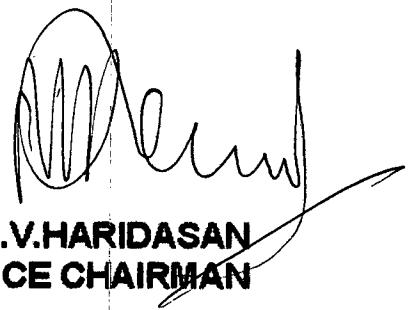
3. I perused the material on record and have heard the learned counsel on either side. The Casual Labourer Grant of Temporary Status and Regularisation is a one time dispensation and unless a casual labourer satisfies the requirement of being in service and completed 240 days of continuous service on the date on which the scheme came into force he cannot claim temporary status. The applicant on his own showing has completed 240 days only in the year 2000 and later and not the date on which the scheme came into force. Therefore the claim of the applicant for temporary status is not sustainable. However it is not a fact disputed that the applicant has been serving as casual labourer from 1984 onwards. Therefore even though the applicant may not be entitled to temporary status he has a right to be considered for engagement in preference to freshers and totally outsiders on the basis of long service rendered by him intermittently. Further from the Recruitment Rules produced by the respondents it is evident that the casual labourers without temporary status are also considered for appointment against the post of Letter Box Peon/Chowkidar etc. next in preference to casual labourers with temporary status. Therefore for the reason that the claim of the applicant for temporary status has been dismissed the respondents are not justified in not considering the applicant for engagement in preference to outsiders and persons with lesser length of casual service than the applicant.

4. In the light of what is stated above while rejecting the claim of the

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applicant for grant of temporary status I dispose of this application directing the respondents to consider the engagement of the applicant for casual work in preference to outsiders and casual labourers with lesser length of service and GDS. There is no order as to costs.

(Dated the 25th day of February 2005)



A.V.HARIDASAN
VICE CHAIRMAN

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