

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

DATE OF DECISION: 15.1.1990

PRESENT

HON'BLE SHRI N.V.KRISHNAN, ADMINISTRATIVE MEMBER  
&  
HON'BLE SHRI A.V.HARIDASAN, JUDICIAL MEMBER

ORIGINAL APPLICATION NO:20/89

S.Nagappan Nair - Applicant

V.

1. Telecom District Manager,  
Trivandrum.
2. Sub Divisional Officer,  
Telegraph, Neyyattinkara-  
695 121.
3. Accounts Officer(Works),  
Office of the Telecom District,  
Manager, Trivandrum.
4. Divisional Engineer(Admn.)  
Office of the Telecom  
District Manager,  
Trivandrum-23.
5. The Director(ST),  
Department of Telecommunications,  
New Delhi-110 001.
6. Union of India,  
represented by its Secretary  
in the Ministry of Telecommuni-  
cations, New Delhi. - Respondents

Mr G Sasidharan Chempazhanthiyil - Counsel for the  
applicant

Mr TPM Ibrahimkhan, ACGSC - Counsel for the  
respondents

O\_R\_D\_E\_R

(SHRI A.V.HARIDASAN, JUDICIAL MEMBER)

In this application filed under Section 19 of  
the Administrative Tribunals Act, the applicant has prayed  
that the respondents may be directed to count the services  
rendered by him from the year 1979 onwards as Casual Mazdoor

and  
/ to regularise him as a regular Mazdoor with due seniority.

The material averments in the application can be shortly stated thus:

2. The applicant commenced his service as casual Mazdoor under the second respondent in February 1979 at the age of 17 with Service Card No.T-142. He had also registered his name with the local Employment Exchange. The Service Card issued to him was taken back as he had not completed the age of 18. Though he was 18 years old on 15.5.1979, the Service Card was not returned to him. But he continued to work as a Casual Mazdoor. The Service Card was reissued to him with the same number only in the year 1985 pursuant to representation made by the applicant Engineer, to the Divisional/Telegraph, Trivandrum. But this card did not contain entries relating to the period prior to 1984-85. The entries in the Service Card are made with reference to the wage bills by the 2nd respondent, Before the wage bills are forwarded through Imprest Bills(ACE-2 Bills) to the third respondent. The third respondent would incorporate the wage bills in his cash book and keep them as paid vouchers in his custody. At the time when the Service Card was reissued to the applicant in February the wage bills 1985/had already been forwarded by the third respondent and therefore they would not be available with him. From 1985 onwards the number of days worked by the applicant are entered in the service card. The fifth respondent

had issued instructions to regularise the casual mazdoors who had been serving in the Telecommunication Department for 7 years or more as on 31.3.1987 subject to the condition that they should have been in service prior to 1.4.1980 and should have rendered service for at least 240 days per year in any two years prior to 31.3.1987. The applicant is eligible to be considered for regularisation as regular mazdoor in the pay scale of Rs.750-940 since he commenced his service in February 1979 and as during 1985-86, 1986-87 and 1987-88 <sup>he had</sup> worked for more than 240 days in each year. But the second respondent did not obtain the application of the applicant and forward the same for consideration for regularisation while he did so in the case of all other casual mazdoors even those who joined service much later than the applicant. The reason for not doing so appears to be that the details of engagement of the applicant <sup>between</sup> during the period 1982 to 84 were not available in the Service Card and in spite of repeated <sup>requests</sup> in that behalf, the third respondent has not cared to verify the paid bills in ACG-17 Form for the period from 5/79 to 3/84 in the case of the applicant. <sup>This</sup> is evident from his letter to the fourth respondent dated 29.11.1988 wherein it is stated as follows:

"Regarding the work done under bills it is intimated that the period of preservation of re-coupment bills is only 3 years and that verification of these periods even if records are made available is a difficult task".

Because the third respondent was not prepared to take the difficult task of verification of the pay bills to find out the number of days on which the applicant had worked during the period 1982-83 and 1983-84 the applicant's name has not been considered by the authorities for the purpose of regularising him as a mazdoor. This shirking of responsibilities has caused undue hardships to the applicant, since for that reason he has not being considered for regularisation as mazdoor while others juniors to him have already been empanelled. Though the applicant has made representations to the fourth respondent, he has not been favoured with a reply. As it is understood that the fourth respondent is about to surrender six posts of mazdoors out of 240 posts allotted to him without considering the applicant for regularisation, the applicant has no other course but to approach this Tribunal for a direction to the respondents to consider him for regularisation in the circumstances mentioned above.

3. The application is opposed by the respondents. A reply affidavit has been filed stating that the applicant has not been working for the period 1982-82 and 1983-84 that if this period is excluded, his service would be less than 7 years and that for that reason the applicant is not entitled to be regularised.

4. We have heard the arguments of the learned counsel on either side. It is argued by the learned counsel for the respondents that from document No.4 produced by them, which is a letter written by the applicant to the D.E.T., Trivandrum, it is evident that from 1982 to 1984 he was studying in College, and that there is absolutely no basis for the claim of the applicant that he has been in continuous casual engagement from 1979 onwards. But the learned counsel for the applicant would say that since the applicant was only a private student during 1981 to 1983, he has been doing casual labour and that this fact would be evident from the ACG-17 Forms which must be in the possession of the third respondent. He further submitted that as the completion report of the estimate of work relating to these bills have not been released yet if these bills are scrutinised, it could be seen that he has been working during 1982 to 1984 also. The applicant has also pointed out in sub-paras 16 and 17 of para 4 of his application the instances where work done on paid bill ACG-17 has been verified for periods as early as 7.7.1978.

5. From the records available before us it is not possible for us to enter a finding positively that the applicant has been working during the period 1982-83 and 1983-84. As verification has been made in the case referred to in sub-paras 16, 17 and 18 of para 4 of the application from the ACG-17 bill, the services if any rendered

by the applicant should also be capable of verification. It is seen that the fourth respondent has not disposed of the representation made by the applicant on 11.7.1988 at Annexure-VI in which he has given some more details of the work done in 1982-83 and 1983-84. We are of the view that before the respondents can state conclusively that the applicant did not work at all in 1982-83 and 1983-84, they should verify the statement again. Therefore the interest of justice would be met if the fourth respondent is directed to dispose of this representation after giving the applicant an opportunity to be heard.

6. In the circumstances of the case and for the reasons mentioned above we dispose of this application with a direction to the fourth respondent to dispose of the Annexure-VI representation after getting the required information from the third respondent and giving the applicant an opportunity to be heard in person and also to consider the applicant's claim for regular appointment as mazdoor in case he is found to satisfy the eligibility conditions. The action on the above lines should be completed within a period of three months from this date.

8. There will be no order as to costs.

  
(A.V. HARIDASAN)  
JUDICIAL MEMBER

  
(N.V. KRISHNAN)  
ADMINISTRATIVE MEMBER

15.1.1990

11.2.91.

NVK & AVH

Mr. G. Sasidharan

For the applicant.

None appears for the respondents the respondents.

.....

a copy of ~~the order~~ by the applicant.

It is seen that, the CCP, filed and the ~~copy thereof~~ appears to have been served on SCGSC.  
 Issue notice to Respondents to file reply within  
 15 days. Call on 25.2.91.




11.2.91.

SPM & AVH.

Mr. G. Sasidharan, Chempazhanthiyl for applicant.  
 Mr. P. K. Madhusudhana for respondents - P. K.

The learned counsel for the respondents  
 produced a copy of the order issued by the Divisional  
 Engineer in the office of the Telecom. District Manager  
 Trivandrum dated 21.2.91 by which the applicant has  
 been regularised in the cadre of regular mazdoor w.e.f.  
 1.3.91. The learned counsel for the applicant has  
 not received a copy of this order and prays for some  
 time to argue on the same. List for further direction  
 on the CCP on 11.3.91.

  
25.2.91
SPM & ND

None for petitioner  
 Mr. Suganathan for respondents

List for further direction on  
12.3.91 - No further adjournment  
 will be given.



11.3.91.

Notice to Respondents  
 (issued).

PS  
 14/2

Notice served.  
 22/2

G  
 14/2

CLP

(28)

11.3.91  
 (25)

12-3-91  
(330)

SPM & ND

None for the petitioner  
Mr. Unnikrishnan for respondents(proxy)

ORDER...

The learned counsel for the respondents  
stated that the judgement of this Tribunal in  
OA-20/89 has been implemented and <sup>he</sup> has produced  
a copy of the order implementing the judgement.  
None is present for the petitioner even for today.

Accordingly, the CCP is dismissed and  
the notice discharged.

*N. Dharmadan*  
( N. DHARMADAN )  
JUDICIAL MEMBER

*2/3/91*

12-3-1991

*S. P. Mukerji*  
( SP. MUKERJI )  
VICE CHAIRMAN

FO issued  
FILED

*12/3*

*Mr. BCP. 12/3/91*