

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 203/90 499
Exx No.

DATE OF DECISION 27.3.1991

Rosamma T. Applicant (s)

M/s. M.V. John & Varghese Myloth Advocate for the Applicant (s)

Versus

General Manager, Telecommunications, Respondent (s)
Trivandrum and 2 others

Mr. K. Prabhakaran, ACGSC Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. S.P. MUKERJI, VICE CHAIRMAN

The Hon'ble Mr. A.V. HARIDASAN, JUDICIAL MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement? ✓
2. To be referred to the Reporter or not? ✓
3. Whether their Lordships wish to see the fair copy of the Judgement? \n
4. To be circulated to all Benches of the Tribunal? \n

JUDGEMENT

(Hon'ble Shri S.P. Mukerji, Vice Chairman)

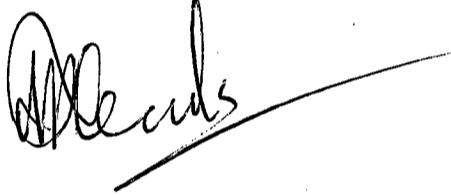
In this application dated 1st March, 1990 filed under Section 19 of the Administrative Tribunals Act, the applicant who has been working as a Casual Mazdoor under the Divisional Engineer, Telegraphs, Kottayam has prayed that the second respondent be directed to reengage her and regularise her in the post and to absorb her into a Group D cadre as and when ^a vacancy arises. According to the applicant she was being engaged as a Casual Mazdoor on daily wages from November, 1979 intermittently till 1986. She was denied employment from 1986 onwards on the ground that she was not selected. According to her she has passed 7th Standard and is registered with the Employment Exchange. She has also produced a certificate at Annexure -A dated 31.7.89 indicating that she was engaged for 10 days during 1981-82, 107 days during 1982-83 and 9 days during 1983/84 at Ettumanoor Exchange. She has not been able to obtain certifi-

cate of work upto 1986 in spite of her representation (Annexure-B). She represented again on 30.11.89 for the issue of experience certificate as at Annexure-C. Her further representation dated 8.2.1990 was rejected by Annexure-D dated 9.2.1990 on the ground that no more Casual Mazdoors could be approved and because she had not been selected through the Employment Exchange. The applicant has quoted the rulings of the Supreme Court in Surendra Singh's case for regularisation and in the Daily Rated Casual Labour, P&T Deptt.'s case directing the P&T Department for preparing a scheme for absorption of casual labourers who have been working continuously for more than one year in the department. The P&T Department has prepared a scheme accordingly for regularisation of casual workers. The DG, P&T as a one time measure vide his instructions dated 7.5.85 (Annexure-E) directed regularisation of casual workers in Group D posts by relaxation of Employment Exchange procedure. According to the applicant she is entitled to the benefits of these instructions and the decisions of the Supreme Court for being regularised. The termination of her services against these decisions is arbitrary and discriminatory. The respondents have stated that the application is time-barred as she was not engaged after 1986 and she should have moved the Tribunal within one year. They have indicated that the applicant was not a selected/approved Casual Mazdoor and under the orders of the Directorate of Telecom, only approved mazdoors can be engaged for departmental work. The certificate produced by the applicant might have been based on engagement on sporadic work and paid direct on imprest bills. There is no record to prove her engagement beyond 1984 and accordingly the experience certificate from 1979 to 1986 could not be given. She was neither engaged through the Employment Exchange nor was she an approved mazdoor, ^{and thus} she does not come within the category of Casual Mazdoors to whom the benefits of the Supreme Court rulings and the scheme of regularisation can be given. The applicant was ^{merely being} engaged for short intervals during the absence of part-time employees.

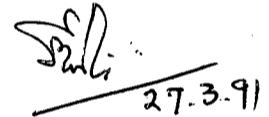
2. We have heard the arguments of the learned counsel for

both the parties and gone through the documents carefully. The respondents have denied the benefits of reengagement and regularisation of the applicant who has been working as a Casual Mazdoor on the ground that she was neither engaged through the Employment Exchange nor was she an 'approved' mazdoor. They, however, have not denied the certificate given at Annexure-A by the Junior Telecom. Officer, Kottayam in accordance with which she was engaged for a total of 116 days between 1981 and 1984. The learned counsel for the respondents could not explain the difference between 'approved' Casual Mazdoor and an 'ordinary' Casual Mazdoor. It was stated by him that 'approved' Casual Mazdoor might be those who are engaged through the Employment Exchange. In this case the applicant has not averred that she was originally engaged through the Employment Exchange. Since the applicant was admittedly being engaged for 116 days between 1981 and 1984 and since by the Department of Personnel & Training's O.M. No.49014/18/84-Estt.(C) dated 7th May, 1985(Annexure -E) it was decided that casual "workers recruited before the issue of these instructions may be considered for regular appointment to Group 'D' posts, in terms of the general instructions, even if they were recruited otherwise than through the employment exchange, provided they are eligible for regular appointment in all other respects", the fact of the applicant ^{having been} not ~~having been~~ recruited through the Employment Exchange before 1984 should not be held out against her. In the judgment of this Tribunal dated 27.11.1990 in O.A 21/90 the applicant therein who had worked as an 'approved' Casual Mazdoor under the Assistant Engineer, Telephones between 1.10.83 and 31.12.83 intermittently for a total period of 84 days was allowed to get his name included in the list of Casual Mazdoors with bottom seniority and given work "whenever work is available according to his turn". Still in another case in O.A.202/89 one Shri K.M.Joseph who had worked like the applicant before us under the Sub Divisional Officer, Telegraphs, Alleppey as a Casual Mazdoor between 10.6.75 and 30.9.80 on the ground that he had abandoned the work, this Tribunal by its order dated 15.2.90 on MP No.3/90 in that case directed the respondents

therein "to include the name of the applicant as the last casual labourer in that list so as to enable him to get casual employment whenever work is available, in accordance with his seniority in that list". In the light of the aforesaid discussion and the reliefs given in similar cases we allow this application to the extent of directing the respondents to include the name of the applicant as the last casual worker in the list of approved casual labourers and to give ~~her~~ casual employment whenever work is available, in accordance with her seniority in that list. The applicant should also be considered for grant of temporary status and regularisation in Group 'D' cadre in her turn in accordance with the scheme, if any, which the respondents ^{may} have promulgated in implementation of the judgment of the Supreme Court in Daily Rated Casual Labour employed in P&T Deptt. vs. Union of India, AIR 1987 SC 2342. There will be no order as to costs.



(A.V.Haridasan)
Judicial Member



27.3.91

(S.P.Mukerji)
Vice Chairman

n.j.j