

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No.209/2000

Wednesday this the 13th day of February, 2002.

CORAM

HON'BLE MR.G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER
HON'BLE MR.K.V.SACHIDANANDAN, JUDICIAL MEMBER

P. Dinaprakash
S/o Krishnan
Paramel House
Thiruvazhiyode
Ottapalam.Applicant.

(By advocate Mr.M.R.Rajendran Nair)

Versus

1. The Sub Divisional Engineer
Telecom, Cherpllasserry.
2. The Divisional Engineer
Telecom, Ottapalam.
3. The General Manager
Telecom, Palakkad.
4. The Chief General Manager
Telecom, Kerala Circle
Thiruvananthapuram.
5. Union of India rep. by
The Secretary
Ministry of Communications
New Delhi.

....Respondents.

(By advocate Mr.C.B.Sreekumar, ACGSC)

The application having been heard on 13th day of February, 2002, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR.G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

Applicant aggrieved by Al order dated 21.2.2000 by which his services were terminated with effect from the afternoon of 21.2.2000 filed this Original Application seeking the following reliefs:



i. Quash Annexure A1.

i(a). Quash R(1) and R(2).

ii. Declare that the applicant is entitled to be engaged as casual mazdoor in preference to freshers and juniors and to direct the respondents to engage the applicant for casual work in preference to freshers and juniors.

iii. To direct the respondents to reengage the applicant with full back wages.

iv. To direct the respondents to pay the back wages to the applicant with interest at the rate of 18% per annum.

v. Grant such other reliefs as may be prayed for and the Court may deem fit to grant and

vi. Grant the cost of this Original Application.

2. The applicant was initially engaged as Casual Mazdoor in 1986 under the respondents. He was engaged for 343 days in 1987, in support of which he produced A3 certificate dated 27.1.98 issued by the Assistant Engineer, Telegraphs. Later when he was denied work, he approached this Tribunal seeking reengagement and regularisation by filing OA No.45/94. By A4 order dated 20.12.94, the OA was disposed of with a direction to the respondents therein to prepare and maintain a panel of casual mazdoors, from which all future engagements were to be done. In 1999, A5 panel dated 15.6.99 was prepared by the respondents. In this panel the applicant was found eligible and was empanelled. Pursuant to A-5, the 2nd respondent issued orders to the 1st respondent (A6 dated 22.6.99). The applicant was being engaged continuously thereafter. A1 order was issued



on 21.2.2000. According to the applicant, casual work was available under the respondents in various construction projects and such work was being carried out by other casual labourers, either freshly recruited through employment exchange or working under bills. Hence, he filed this OA seeking the above reliefs.

3. Respondents filed reply statement resisting the claim of the applicant. According to them, action had been initiated to terminate the services of the applicant in accordance with O.M. dated 12.2.99 and 15.6.99 (Annexures R1 & R2). General Manager, Telecom, Trivandrum by R3 letter issued instructions that R1 and R2 were applicable to empanelled casual mazdoors also and accordingly R5 order was issued by Divisional Engineer, Telecom, Ottapalam to Sub Divisional Engineer, Cherplachery dated 21.2.2000 to terminate the services of the applicant. Respondents also filed an additional reply statement.

4. When the OA was taken up on date for hearing, the learned counsel on both sides submitted that the case of the applicant in this OA is similar to the applicant in OA 1206/99 decided by this Bench of the Tribunal on 5.11.2001 and that the order of the Tribunal in that OA would be squarely applicable to the facts and circumstances of this case also.

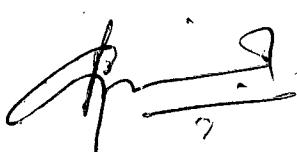
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5. In OA 1206/99, this Tribunal held as follows:

"3. The only question to be decided is, whether on the basis of A4 is it permissible for the respondents to restrict the engagement of the applicant to 30 days at a time and 100 days in an year. The question was considered by a Bench of this Tribunal in its order in OA 199/2000 and it was held that it was not permissible to place any restriction to 30 days at a time or 100 days in an year for empanelled casual labourer for engagement and that they are entitled to be engaged subject to availability of work. We are in respectful agreement with the above decision.

4. In the light of what is stated above, the application is allowed. As the A4 has already been set aside in OA 199/2000 we direct the respondents to continue to engage the applicant as empanelled casual labourer, subject to availability of work in preference to freshers and casual labourers with lesser length of service than him. There is no order as to costs."

6. A4 referred to in the above order is R2 in this OA i.e. the Department of Telecom O.M. dated 15.6.99. Following the ruling of this Bench of the Tribunal as stated above, this OA is to be allowed. As R2 has already been set aside in OA 199/2000, we direct the respondents to continue to engage the applicant as empanelled casual labourer subject to availability of work in preference to freshers and casual labourers with lesser length of service than him.

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7. The Original Application is allowed in part as above.
There is no order as to costs.

Dated 13th February, 2002.



K.V.SACHIDANANDAN
JUDICIAL MEMBER



G.RAMAKRISHNAN
ADMINISTRATIVE MEMBER

aa.

APPENDIX

Applicant's Annexures:

1. A-1 : True copy of the order No.CPC/E-4/99-2000/5, dated 21.2.2000 issued by the 1st respondent.
2. A-2 : True copy of the Casual Mazdoor card No.126, issued by the Sub Divisional Officer, Telegraphs, Bhavani.
3. A-3 : True copy of the Certificate dated 27.1.1988 issued by the Assistant Engineer, Telegraphs, Co-Axial Cable Division, Madras.
4. A-4 : True copy of the final order dated 20.12.1994 in OA 54/94 on the file of this Hon'ble Tribunal.
5. A-5 : True copy of the order No.E-35/Maz-Genl./IX/99-2000/66, dated 15.6.1999 issued for the 3rd respondent.
6. A-6 : True copy of the order No.E-4/98-00/76, dated 22.6.1999 issued by the 2nd respondent.

Respondents' Annexures:

1. R-1 : True copy of Office Memorandum No.269-4/93-STN.II (Pt.) dated 12-2-1999.
2. R-2 : True copy of Office Memorandum No.269-4/93-STN.II (Pt.) dated 15-6-1999.
3. R-3 : True copy of Chief General Manager Telecom, Trivandrum letter No.TFC/28-2/EMP/99 dated 21-10-99.
4. R-4 : True copy of DOT ND letter No.271-5/2000-STN.II dated 4-2-2000.
5. R-5 : True copy of Divisional Engineer Telecom, Ottapalam letter No.E-4/98-00/191 dated 21-2-2000.

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