

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM

O. A. No. 219/90  
~~XXXXXX~~

199

DATE OF DECISION 31.12.90

NP Backer Applicant (s)

Mr MR Rajendran Nair Advocate for the Applicant (s)

Versus

The Officer, Engineering Telecom  
Idukki and 3 others Respondent (s)

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

CORAM:

The Hon'ble Mr. NV Krishnan, Administrative Member

The Hon'ble Mr. N Dharmadan, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? No
3. Whether their Lordships wish to see the fair copy of the Judgement? No
4. To be circulated to all Benches of the Tribunal? No

JUDGEMENT

Shri N Dharmadan, Judicial Member

The applicant is aggrieved by the refusal of the respondents to engage him as casual mazdoor and the denial of continuity of service from the date of his original engagement.

2 According to the applicant, he was initially recruited as casual mazdoor by the Sub Divisional Officer, Telegraph, Idukki on 2.6.81. He also worked in Muvattupuzha Sub Division from 1982. His name was included in muster rolls and he continued till 31.8.83. Thereafter, the applicant worked during short spells of time as evidenced by Annexure-II series, the certificates, issued by the SDO Telegraph from of various Sub Divisions.

3           The applicant's disability due to an accidental fall in December, 1986 resulted in his failure to attend for works from 16.12.86. He recovered and medically found fit for work only on 23.12.89. He submitted Annexure-III and Annexure-IV representations with medical certificate for getting work and continuity in service treating his period of absence as sanctioned leave. But these representations have not been disposed of. In the meantime the applicant was given intimation as indicated in Annexure-V proceedings dated 9.1.90 that his selection for engagement has been cancelled since the applicant was not available for work from 15.12.86. His name was also removed from the list of casual mazdoors.

4           Under these circumstances, the applicant has filed this application praying for a declaration that the cancellation of his selection as casual mazdoor and the removal of his name from the muster rolls are illegal. He further requested for a direction to the respondents to engage him as casual mazdoor and assign work in preference to his juniors with continuity in service from the original engagement and all consequential benefits.

5           To-day when the case came up for hearing the learned counsel for the respondents submitted that the *resps: 1* are willing to engage the applicant as casual mazdoor in view of the fact that work is available at present and that the cancellation of the selection for engagement

of the applicant and consequent removal of his name from the muster rolls had been made without giving any proper notice to the applicant. In the light of these statements of the learned counsel for the respondents it is unnecessary for us to decide the issues raised by the applicant in this case. The applicant is satisfied with a disposal of this application after recording these statements of the learned counsel for the respondents.

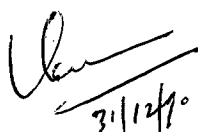
6 Accordingly, we have decided to dispose of this application with directions after recording the statements indicated above. <sup>Record the above statements and by</sup> We direct the respondents to engage the applicant as casual mazdoor within a week from the date of receipt of a copy of this judgment notwithstanding the statements in Annexure-V about the cancellation of his selection and removal of his name from the muster rolls.

7 Regarding the claims of the applicant for continuity in service from the original date of engagement with all consequential benefits we feel that justice would be met in this case, if we direct the applicant to submit a detailed representation stating his claim for continuity and regularisation on the basis of Annexure-II certificates and other available materials including the medical certificates. If the applicant submits such a representation within a period of two weeks from to-day with all materials to establish his

claim the respondents shall consider the same  
and pass appropriate orders in accordance with  
law.

8 This application is disposed of as above  
and there will be no order as to costs.

  
(N Dharmadan) 31.12.90.  
Judicial Member

  
31/12/90  
(NV Krishnan)  
Administrative Member

31.12.1990