

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

DATED WEDNESDAY THE SECOND DAY OF AUGUST ONE THOUSAND
NINE HUNDRED AND EIGHTY NINE

PRESENT

HON'BLE SHRI S. P. MUKERJI, VICE CHAIRMAN

&

HON'BLE SHRI N. DHARMADAN, JUDICIAL MEMBER

O.A. 222/87

M. V. Satheesan

&

P. P. Thilakan

Applicants

Vs.

1. Union of India represented by the
Secretary to Government,
Ministry of Communications,
Secretariat, New Delhi and

2. The Sub Divisional Officer
Telephones, Alleppey-1

Respondents

M/s. M. R. Rajendran Nair and
P. V. Asha

Counsel for
the applicants

Mr. P. V. Madhavan Nambiar, SCGSC

Counsel for
the respondents

ORDER

Hon'ble Shri N. Dharmadan, Judicial Member

The applicants in this case are Casual Mazdoors in
P & T Department. They were selected for appointment on
the basis of an interview held on 29.5.1981. The applicants
were requested to report to the Sub Divisional Office,
(Telephones), Alleppey-1 for work from 8.6.1981. Accordingly
they reported for duty, but they were assigned work only
from 18.10.1981 and 12.10.1981 respectively.

2. The applicants have a case that though they were working as Casual Mazdoor, they were not being paid wages and bonus at the rate applicable to other Casual Mazdoors and that they were not ^{even h} either given regular work. Since the applicants were not regularly getting work, they were placed below all persons who joined for work from 10.6.1981 onwards. Hence, they have submitted representations for the correction of the seniority list.

3. According to the applicants, they have completed five years continuous service as Casual Mazdoor in the P & T Department. But work was denied to them ^{subsequently to}. Accordingly, they have approached this Tribunal with the following reliefs:

- (i) to declare that the denial of work/employment is void as violative of Section 25-F and Section 25-G of the I.D. Act;
- (ii) to direct the respondents to fix the seniority of the applicants on the basis of their date of appointment i.e. 8.6.1981;
- (iii) direct the respondents to give work and wages to the applicants with effect from 8.6.1981;
- (iv) direct the respondents to pay the applicants wages equal to that being paid to other Casual Mazdoors for the work which is at present fixed at the rate of Rs. 26.50 per day and direct payment of arrears of wages till that day on such basis and
- (v) direct the respondents to pay bonus to the applicants at the rate at which other Casual Mazdoors are being paid.

4. The respondents have filed a detailed counter affidavit in this case ^{in which it is} contending that the applicants are approved Casual Mazdoors and they are being engaged for work by mustering official as and when there is work and

they are being paid daily wages at the rates fixed by the department from time to time. ^{✓ Part 4} Bonus is paid only to eligible Mazdoors as per orders contained in DGP&T, New Delhi, letter No. 31-1/86-PAT dated 13.10.1986.

5. When the case was taken up for hearing ~~today~~, the learned counsel appearing on behalf of the respondents submitted that since the applicants had been appointed on ^{Wages in favor of the} ^{by} a regular basis and the wages were also paid on that basis ^{that} there is nothing ^{survives} in this case for decision by the Tribunal. But, according to the learned counsel for the applicants, the relief pertaining to the payment of equal wages and bonus are not settled.

6. The learned counsel of the petitioners relying on the decision reported in A.I.R 1987 S.C. 2242, contended that they are entitled to wages at the rate equivalent to minimum pay in the pay scale on the basis of ^{✓ which ✓} regularly employed workers in the corresponding cadre. ^{✓ are being paid ✓} They are also entitled to other benefits including bonus which are now being enjoyed by casual labourers, whose service has been regularised. There can be no serious objection to this contention by the respondents except that the bonus can only be paid as per the letter referred to in the counter affidavit.

7. We see considerable force in the arguments advanced by the learned counsel appearing on behalf of the applicants and hence we accept the same. Accordingly, we direct the respondents to pay wages to the applicants equal to that ^{is ✓}

being paid to other Casual Mazdoors with all attendant
^{if any allowed as per law.} benefits thereof including the arrears ^{With regard to the} payment of bonus to the applicants at the rate at which other Casual Mazdoors are being paid, we direct the first respondent to consider the claims of the applicants in the light of the relevant rules ^{and orders} applicable to them and take a decision in accordance with law as expeditiously as possible and pay the amount to the applicants, if the ^{respondents} takes ^a decision in their favour. The application is disposed of with the above direction; but without any order as to costs.


(N. Dharmadhan) 2/8/89

Judicial Member

2.8.89


(S. P. Mukerji) 2.8.89
Vice Chairman
2.8.1989

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