

CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O.A.No.23/99

Friday this the 9th day of April, 1999.

CORAM:

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN

V.Krishna Das S/o C.Velayudhan,
Sree Sai Jyothi Nivas,
Chenniyampallam,
Vadavannur P.O.

..Applicant

(By Advocate Ms.Indu K)

vs.

1. The General Manager, Telecom, Palghat.
2. Junior Telecom Officer, Koduvayur.
3. Sub Divisional Engineer, Telecom,
Koduvayur Sub Division,
Pudunagaram.

..Respondents

(By Advocate Mr.A.Sathyanathan)

The application having been heard on 9.4.1999, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN:

The applicant claims that he has been working as a casual labourer in the Office of the 1st respondent on part-time basis ever since 1993 and is aggrieved that he is not being considered for grant of temporary status and regularisation. The applicant is also apprehending discontinuation of even his casual service. Under these circumstances the applicant has filed this application for a declaration that he is entitled to be considered for temporary status and for a direction to the respondents not to terminate the casual service of the applicant working as part time Cleaner cum Waterman/Scavenger under the 2nd and 3rd respondents and to allow him to continue granting him temporary status.

2. The respondents in their reply statement contend that the applicant is neither a Part-time Casual Labourer nor a full time casual labourer but was only being called to work on a contract basis and is therefore not entitled to the benefit of the scheme for grant of temporary status and regularisation nor is he entitled to continue.

3. I have carefully gone through the pleadings and materials placed on record and have heard the learned counsel on either side. It is settled by the ruling of the Apex Court in Secretary, Ministry of Communication and another Vs. Sakubai and another reported in 1998 SCC (L&S) 119 that the scheme of grant of temporary status and regularisation for casual labourers does not extend to the part-time casual labourers. Therefore the claim of the applicant for the benefit of the scheme is unfounded.

4. The contention of the respondents that the applicant is not even a part-time casual labourer and was only a contract worker does not appear to be convincing. The respondents have alongwith the additional reply statement produced certain documents to establish their case that the applicant was engaged to work on contract basis being the person who had quoted the lowest rate for performing the sweeping and scavenging work. A close scrutiny of these documents would clearly show that these documents were manipulated to meet the case of the applicant that he is a part-time casual labourer. It will be profitable to extract the contents of Annexures-R1(1) and R1(2).

R1(1):

: 3 :

തൊഴുതുക Quotation November 98

തൊഴുവാച്ചു SDE ദാഹിസയിൽ 11/11/98 മുതൽ 30ാം തിയതി വരെച്ചു സ്കാവച്ചു പണി ചെയ്തതിന് എനിക്ക് തൊഴുവാച്ചു SDE അവർ കൂടെ പണൽ നിന്നു 1500/- രൂപ (സൂനി അൽ പരമേശ്വരൻ പണ 2, മി കിട്ടേ അതാൽ.

എന്ന് Raju.V. S/o Velahin
Good Sed Road, Othana.

R1(2):

തൊഴുതുക Quotation.

തൊഴുവാച്ചു SDE ദാഹിസയിൽ 11/11/98 മുതൽ 30ാം തിയതി വരെച്ചു സ്കാവച്ചു പണി ചെയ്തതിന് എനിക്ക് തൊഴുവാച്ചു SDE അവർ കൂടെ പണൽ നിന്നു 1200/- രൂപ (സൂനി അൽ പരമേശ്വരൻ പണ 2, മി കിട്ടേ അതാൽ.

എന്ന് (Sd) KRISHNADAS.V.
S/o VELAYUDHAN.C.
SRI SAI JYOTHINIVAS
CHENNIYAMPALAM
VADAVANNUR (PO).

The contention of the respondents is that Annexures R1(1) and R1(2) are quotations received from one Mr.Raju and the applicant respectively and the lowest quotation being that of the applicant the work was entrusted to him. If the letters R1(1) and R1(2) were genuine quotations for future work the word "ചെയ്തതിന്" (having performed) would not have been seen in R1(1) as well as R1(2). The word used would have been ചെയ്യുന്നതിന് (for performing). In R1, though November 98 is written, there is no date. In R1(2) there is neither date nor month mentioned. It will be interesting to note that the same is the case with Annexure R2 and R2(2). Annexure R2 purported to have been a quotation given by Sri Raju for the month of December 1998 reads as follows:

തൊഴുതുക Quotation. December 98

തൊഴുവാച്ചു SDE ദാഹിസയിൽ 11/12/98 മുതൽ 30ാം തിയതി വരെച്ചു സ്കാവച്ചു പണി ചെയ്തതിന് തൊഴുവാച്ചു SDE ദാഹിസയിൽ അവർ കൂടെ പണൽ നിന്നു 1500/- രൂപ (സൂനി അൽ പരമേശ്വരൻ പണ 2, മി കിട്ടേ അതാൽ.

എന്ന് Raju.V. S/o Velahin, Good Sed Road
Othana.

Annexure R2(2) is said to be quotation given by the applicant for the same period. The contention of the respondents is that the work was awarded to the applicant being the person who quoted lowest rate. If Raju was not allotted work as the

rate quoted by him was more than what was quoted by the applicant, the words " സുവഞ്ചരപണി ചെയ്തതിന് " (for having performed scavengers job) could not have been found in Annexure R2. It is evident that the so called competitive quotations produced by the respondents were manipulated to defeat the claims of the applicant. Annexures R1 and R2 expose the falsity of the case of the respondents. The words " ചെയ്തതിന് " in these documents clearly detrays the scheme. The other documents produced by the respondents alongwith the additional reply statement also can be considered only as manipulation in the light of my observation about R1, R1(2) and R2(2). Annexure A2 is virtually a true copy of Annexure R11 with the difference that there is an omission to show the addressee and the person to whom copies are sent which are there in Annexure R11. There is no case for the respondents that the contents of Annexure A2(R11) are wrong. Annexure A2 reads thus:

"With reference to the letter No. noted above it is intimated that Sri V.Krishnadas S/o. Velayudhan Sree Sai Jyothi Nivas, Chenniyampallam, Vadavannur P.O. has been working as part-time cleaner cum waterman addition to scavenging works at Koduvayur Telephone Exchange and also at the office of the SDET, Koduvayur w.e.f. 2.4.96. His total daily working time comes around 5.5/hours. 3 hours at Koduvayur Exchange and 2.5 hours at Sub-Divisional office he claims that he has been working since June 1993 for which he is having documentary proof with him."

The third respondent, Sub Divisional Engineer, Telecom, Koduvayur has in Annexures A2 and R11 informed the A.G.M(Adm) that the applicant had been working as part-time cleaner cum waterman in addition to scavenging work at Koduvayur Telephone Exchange as also in the office of the SDET,

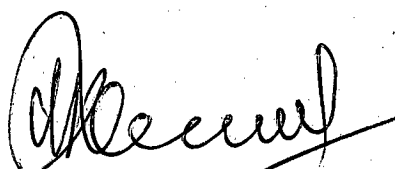
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Koduvayur with effect from 2.4.1996 and that his total working hours are around 5.5 hours. In the light of the above, I have no hesitation in rejecting the contention of the respondents that the applicant is not a part-time casual labourer but only a contract worker.

5. In the result, the application is disposed of with the following declaration and direction:

- (i) The applicant being a part-time casual labourer is not entitled to the benefit of temporary status or regularisation in terms of the scheme for grant of temporary status and regularisation for casual labourers.
- (ii) As the applicant is working as a casual labourer ~~admittedly~~ ^{at least} from 1996 onwards the respondents are restrained from terminating the part-time casual service so long as the work is available in the offices.
- (iii) There is no order as to costs.
Dated the 9th day of April, 1999.

njj/


A.V. HARIDASAN
VICE CHAIRMAN

List of Annexures referred to in the order:

Annexure.A2: True copy of the Certificate No.E5/KUY/98-99/95 dated 20.11.98 issued by Department of Telecom, Sub Divisional Engineer, Pudunagaram.

Annexure.R1: Photo copy of the latest quotations submitted by V.Krishnadas, V.Raju dated 1.11.98.

Annexure.R2: Photo copy of the latest quotations submitted by V.Krishnadas, V.Raju dated 1.12.98.

Annexure.R.11: Photo copy of the letter No.E5/KUY/98-99/55 dated Kuy the 20.11.98 issued bty SDET, Koduvayoor.

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