

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A.No.229/2000.

Wednesday this the 17th day of October 2001.

CORAM:

HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER

Beena K.J., W/o P.Radhakrishnan,  
Padma Vilas, Eloor North,  
Udyogamandal P.O.-683 501, working as Casual Labour  
at Passport Office, Kozhikode. Applicant

(By Advocate Shri P.Ramakrishnan)

Vs.

1. Union of India, represented by the  
Secretary to Government, Ministry of  
External Affairs, New Delhi.
2. The Joint Secretary (CPV) and  
the Chief Passport Officer,  
Ministry of External Affairs,  
New Delhi.
3. The Passport Officer, Passport Office,  
Kozhikode. Respondents

(By Advocate Ms. S.Chitra, ACGSC)

The application having been heard on 17th October 2001  
the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR.T.N.T.NAYAR, ADMINISTRATIVE MEMBER

The applicant's grievance is against the 3rd respondent's oral instruction to her to stop attending office with effect from 1.3.2000. There is no written order of termination of service. The applicant started as a Casual Labour having under gone a regular proccess, of selection through the Employment Exchange and other procedures like interview and test in April 1992. In the year 1993, in a batch of O.As. filed by casual employees including the applicant with regard to their regularisation, this Tribunal by order dated 6.9.93, issued a series of directions. One of the

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4 directions issued by this Tribunal was that the applicant therein who had put in one year's continuous service were eligible for consideration for regularisation in service through examination/test duly conducted by the competent authority viz., Staff Selection Commission. In apparent compliance with the directions contained in the said order, the respondents initiated steps towards regularisation of the applicants and, accordingly, a test was conducted by the Staff Selection Commission for this purpose. The applicant failed in the said test. Thus, the applicant who had already put in sizeable number of days, (296 days to be precise), lost her job after lapse of a considerable time on 20.8.1999. By A-4 order the applicant was called in connection with the recruitment of casual labourers for a limited period and that led to her engagement as casual labour with effect from 31.8.1999 onwards. While being so, on 1.3.2000, the 3rd respondent verbally terminated her services on the alleged ground that the purpose for which her services have been engaged was over. The applicant challenges this oral termination of her services on several grounds and with special reference to the absence of proper notice, the violation of the spirit of the Tribunal's earlier decision and the denial of the benefit of O.M.No.51016/2/90-Estt(c) dated 10.9.1993 regarding the scheme of regularisation. The applicant has made a specific allegation that several persons who are juniors to her have been engaged and retained in service in preference to her pointing thereby to obvious violation of natural justice and principles of equality before law..

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2. The respondents have resisted the claim of the applicant by stating that there was no violation of the spirit of the earlier order of this Tribunal in as much as the applicant, who was given an opportunity to take the test conducted under the auspices of the Staff Selection Commission, failed in the said test and as such her services could not be regularised. With regard to the engagement in 1999, it is contended that as the engagement was only for the specific purpose of handling additional workload and that once that was accomplished, the respondents no longer required her services. Since there was no work to allot to the casual labourers and the limited period for which their services were required was over, there is no question of continuing them. In this connection, the respondents also have pointed out that there was no inequality involved in the whole exercise since the other persons engaged along with the applicant have also been terminated.

3. I have heard Ms. Preethi learned counsel for applicant and Ms. Chitra, Standing counsel for respondents. At the time of hearing my attention was invited to a case involving similar factual situation in which this Tribunal held that as long as work was available, the service of the casual labourers could not be terminated and that they could not be substituted by persons who are freshers and juniors to them. A copy of the relevant order of this Tribunal in O.A.. 396/2000 has been produced by the counsel for applicant for the perusal of the ACGSC appearing for the respondents and also for my perusal.

2. Reiterating the submissions in the reply statement the learned

ACGSC has submitted that the applicant's case could not be considered owing to her failure in the test conducted by the the Staff Selection Commission. Apart from that, she would also stress the point that all the casual labourers who were engaged along with the applicant in the year 1999 were directed not to attend since there was no work and since the purpose for which they had been engaged was over. However, with regard to the specific observations of the Tribunal in O.A. 396/2000, the learned counsel agreed that the matter required to be looked into and, if the applicant's juniors have been engaged in preference to her, the anomaly needed correction. In other words, there is a clear perception that if juniors and freshers are engaged in preference to the applicant, the anomaly arising therefrom requires to be corrected.

4.. I have examined the pleadings and other material on record. I have also carefully considered the submissions made for and against the applicant. I find that a similar factual situation engaged the attention of this Tribunal in O.A.396/2000. After considering the facts therein this Tribunal came to the following findings with regard to grant of temporary status:

2. "Further the scheme for grant of temporary status and regularisation of casual labourers evolved pursuant to the judgement of the Central Administrative Tribunal, Principal Bench in Rajkumar and Others Vs. Union of India and Others does not make any distinction between Casual Labourers who were put to work against the duties of Group 'C' posts and those put to do the work allocated to Group 'D' Posts. The scheme confers benefit on all Casual Labourers excluding Casual Labourers in Railways, Department of Telecommunications and Department of Posts where separate scheme exist.

That the applicants were in service on 1.9.1993 and that they had completed 206 days of continuous service in the office of the respondents which is observing five days week is not in dispute. As the respondents themselves have admitted that the applicants were Casual Labourers and had in fact drawn up a seniority list of Casual Labourers including the applicants (Annexure A-2) I find no justification on the part of the respondents in denying the benefit of temporary status available to the applicants on the basis of the scheme which was brought into force with effect from 1.9.1993."

The respondents therein were directed :

"....not to terminate their services so long as work is available and persons with lesser length of service than them as Casual Labourers are retained in service."

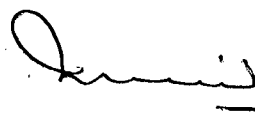
5. These findings are, mutatis mutandis, applicable to the present case also. I find that the applicant had put in 296 days as Casual Labourer (Group 'C') and that such service merits consideration in the matter of conferment of temporary status as held in the case cited above. That the applicant's juniors have been engaged as Casual Labourer and they continue to be retained as such is not specifically denied. The applicant therefore, has a right to be re-engaged in preference to freshers and juniors with shorter duration of service to their credit.

6. In view of the facts and in the circumstances stated above, I hold that the applicant has a claim to be re-engaged in case work is available and in this matter she should get preference over all her juniors and freshers. Her claim to temporary status also requires to be considered seriously having regard to the fact that she had already put in substantially long service right from 1992. Such service ought to be considered for the purpose of conferment of temporary

status subject to her fulfilling other conditions. The respondents shall take steps to carry out the above directions. The consequential order giving effect to the above directions shall be passed within two months from the date of receipt of a copy of this order.

7. The O.A. is allowed as aforesaid. No costs.

Dated the 17th October, 2001.



T.N.T. NAYAR  
ADMINISTRATIVE MEMBER

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APPENDIX

APPLICANT'S ANNEXURE

1. Annexure A1: True copy of communication No.78(20)AD/KER/92 issued by the Passport Office, Kollam dated 6.4.1992.
2. Annexure A2: True copy of the Order dated 6.9.1993 of this Honourable Tribunal in O.A.No.795/93 and connected cases.
3. Annexure A3: Copy of Seniority List of Casual Workers as on 6.12.1993 prepared as per the judgement in O.A.No.795/93.
4. Annexure A4: Copy of Order No.1(35)AD/KZD/93 of the 3rd respondent dated 20.8.1999.

RESPONDENT'S ANNEXURE

1. Annexure R1: Copy of Ministry's order No.V.IV/579/14/93 dated 14.7.1999.

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