

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.230 of 1999.

Friday this the 10th day of November, 2000.

CORAM:

HON'BLE MR A.M.SIVADAS, JUDICIAL MEMBER

HON'BLE MR G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

Jolly Varghese, Group D,
Office of the S.D. Engineer O.C.B.,
Telephone Exchange, Muvattupuzha. Applicant

(By Advocate Shri T.M. Abdul Latiff)

Vs.

1. Union of India represented by
Secretary to Government,
Information and Broadcasting,
The Communication Department,
Central Secretariat,
New Delhi.
2. Director of Telecommunications,
New Delhi.
3. Chief General Manager, Telecom,
Thiruvananthapuram.
4. Sub Divisional Engineer
(Administration)
O/o. P.G.M. T.D., Ernakulam,
(Principal General Manager,
Telecom District). Respondents

(By Advocate Shri T.A. Unnikrishnan, ACGSC (R.1-4))

The application having been heard on 10.11.2000, the Tribunal
on the same day delivered the following:

O R D E R

HON'BLE MR A.M.SIVADAS, JUDICIAL MEMBER

Applicant seeks the following reliefs:

"To cancel the gradation list of Group D
published as per Annexure A-7 dated 21.7.1997 by giving
the rank No. 1598 and also the eligibility list to the
respective cadre of Phone Mechanic, Ernakulam SSA by

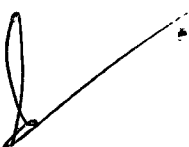
giving the rank No. 1598 as per Annexure A6 and to refix his seniority considering his right to get appointment as Group D in the year 1988 and Phone Mechanic in the year 1996 and also to order suitable correction in the aforesaid seniority lists by giving proper placement above that of his juniors and also to give arrears of pay and other allowances etc. for the post of Group D which is due to him from 1988 instead of 1994 and also as Phone Mechanic from 1996 April, the date on which he would have been appointed in the said cadre in acceptance of his service for the condoned period with 18% interest and also to order refixation of seniority in the respective cadres which is due to him as per the rules.

B) To cancel Annexure A-10 order on the ground that it is totally against the rule and regulation and to declare that the period for which he was unable to do duty, and which was condoned is to be treated as duty for all purposes including seniority for absorption of Phone Mechanic, Group D and also for temporary status.

C) To direct the 1st respondent to consider and pass order on Annexure A-9 representation and also to pay the full bonus which is due to him during the period of temporary status.

D) To issue an order directing the respondents 1 to 3 to appoint the applicant as Phone Mechanic forthwith."

2. The applicant is working as Group D. Seniority list is published by the Department of Group D Officers as on 1.1.96 in which the rank assigned to him is 1595. The same is prepared without taking into account his service periods which are to be reckoned for the purpose of giving temporary status as well as regular absorption to Group D. The 4th respondent has passed an order dated 22.12.1998 refusing his claim for accounting the period of absence from duty from 11.8.87 to 10.12.87 for the purpose of fixing seniority.




3. Respondents contend that regularisation of casual mazdoors in the Telecom Department was done as per standing orders and instructions. As per Annexure R-2, any break in service unless condoned by the competent authority means a real 'break' and subsequent service can be considered as "Fresh" service only. As per Annexure R-4, it has been clarified that if the break period of Temporary Status Mazdoors is not condoned, his re-instatement should be treated as fresh engagement and his service will be taken into account w.e.f. the date of his fresh engagement in order to complete his 10 years service. If the break period of Temporary Status Mazdoor is suitably condoned only the period of his absence will not be taken into account.

4. Applicant is challenging A-6, the seniority list A-7 and A-10. If A-10 is found to be sustainable, then A-6 and A-7 are also sustainable. If we find that A-10 is bad and unsustainable in law, it will follow that A-6 and A-7 are also liable to be interfered.

5. A-10 says that the claim of the applicant for accounting the period of absence from 11.8.87 to 10.12.87 as duty for the purpose of fixing seniority cannot be considered since it is against the provisions contained in the regularisation scheme of Temporary Status Mazdoors.


6. Learned counsel appearing for the applicant drew our attention to A-2 as per which the said period was condoned by



the Divisional Engineer. There is no dispute as to the fact that as per A-2, the said period has been condoned. What the respondents say is that because of the fact that the said period has been condoned, that period alone will be excluded from counting his total service. If not, according to the respondents the position will be that the applicant will forfeit all his past services. A-10 does not go to the extent of forfeiting the past services of the applicant, but only says that the applicant's claim for counting the period of absence from 11.8.87 to 10.12.87 as duty for the purpose of fixing seniority, cannot be considered. To put it differently, that period alone is excluded. For that respondents are gaining strength from Annexure R-4 dated 13.5.99 wherein it has been stated that if the break period of the Temporary Status Mazdoor is suitably condoned only the period of his absence will not be taken into account. There is no attack against Annexure R-4. A-10 is in tune with Annexure R-4. That being so, we do not find any ground to interfere with A-10, A-6 and A-7 and the applicant is not entitled to any of the reliefs claimed.

7. Accordingly O.A. is dismissed. No costs.

Dated the 10th November 2000.


G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER


A.M. SIVADAS
JUDICIAL MEMBER

List of Annexures referred to in the order:

Annexure A-2: True copy of the Memorandum No. ET/D-TAX/A-4/88-89/18 dated 26.10.1988.

Annexure R-4: True copy of the order No. 269-13/00-STNII dt 13.05.99 issued by Asst. Director General (STN) dated 16.6.1988.

Annexure A-6: True copy of pages 1 and 3 of the eligibility list of official to the restructured cadre of phone Mechanics, Ernakulam SSA.

Annexure A-7: True copy of the gradation list with page No. 1,2 and 59 with covering letter dated 21.7.1997.

Annexure A-9: True copy of the petition submitted by the applicant before the 1st respondent dated 3.12.1997.

Annexure A 10: True copy of the order passed by the 4th respondent on 22.12.1998, refusing the claim of applicant for accounting the period of absence from duty from 11.8.87 to 10.12.1987 and duty for the purpose of seniority.

Annexure R-2: True copy of order No. Admn-7/Rectt/EK-221/TSM
94-95/2 dt. 6.1.94 issued by Asst. Engineer.