INTERIM ORDER

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

M.G. Road,
Kochi - 11.

MONDAY THE 12TH DAY OF OCTOBER, 1992.

P R E S E N T

Hon'ble Mr. S.P. Mukerji .... Vice Chairman

and

Hon'ble Mr. A.V. Haridasan .... Judicial Member

ORIGINAL APPLICATION NO.1027/91

A. Mohanan ... Applicant

Versus

UOI, SDO(T), Palghat & 2 others ... Respondents

Mr. MR Rajendran Nair ... Counsel for applicant(s)

Mr. George Joseph ... Counsel for respondent(s)

O R D E R

Heard the learned counsel for the parties in part on all the group of cases about re-engagament of casual labourers. Shri TPM Ibrahim Khan, ACGSC on behalf of all other counsel appearing in all these applications fairly suggested that a further time be given to the respondents to thrash out a scheme for re-engagement of casual workers who had been engaged prior to a certain date and considering their case on the basis of the length of casual service put in by them. He also mentioned the inevitability of the departmental staff engaging casual labour for emergency work when there is no time to approach the Employment Exchange or consult the list of approved mazdoors. He however, accepted that such casual employment outside the Employment Exchange or outside the list cannot continue for more than a few days or after the emergency situation is removed. He also accepts the possibility of maintaining the Sub Division-wise panel of casual workers for the purpose of re-engagement so that the element of arbitrariness is removed and the doubts expressed by the Hon'ble Supreme Court about such casual engagement of labour are avoided. The learned counsel for the applicant mentioned that most of the complications and arbitrariness in such

...2/-

appointments have arisen because of the imposition of a rigid and unrealistic ban on employment of casual mazdoor on one hand and the unavoidable situation of engaging casual mazdoor to meet local emergency needs continuously. This aspect also should be kept in mind in the light of the Supreme Court judgement, in the preparation of the scheme of re-engagement of casual mazdoors. Shri Ibrahim Khan stated that after detailed discussion with the departmental officers and the Senior Central Govt. Standing Counsel, he will be able to come up with certain concrete suggestions in the above light within a period of 4 weeks. The main objective of having such a scheme is to mitigate further litigation and give justice and equity to the casual employees and to avoid the scope of arbitrary and motivated action by the local staff.

We feel that in the interest of justice and in the interest of the respondents themselves for better administration, such a scheme acceptable to all concerned will be welcome. The adjournment therefore is necessary and we grant the same. List for further arguments on 23-11-92.

A copy of this order and our order dated 1-7-1992 be made available to Shri TPM Ibrahim Khan and the SCGSC and also to the learned counsel for the applicants by hand.

A copy of this order be placed on all these connected case files.

SD/-
(AV HARIDASAN)
JUDICIAL MEMBER

SD/-
(SP MUKERJI)
VICE CHAIRMAN

12-10-92

Encl:- Alongwith copy of order dated 1-7-92

To

Original Application No.	Counsel for applicant	Counsel for respondents
1027/91, 1691/91, 1200/91, 1458/91, 1485/91, 1622/91,	Mr. MR Rajendran Nair	Mr. George Joseph ACGSC

.....3/-

5

23.11.92

Mr.MR Rajendran Nair
Mr.Sasidharan Chempazhanthiyil
Mr.Poly Mathai for SCGSC
Mr.TPM Ibrahimkhan, ACGSC

We have heard the learned counsel for all the parties in the bunch of cases at Sl.No.14 to 117 in the cause list of today. The General suggestions which emerged from the discussions are as follows:

a) There should be two deadlines for recognising casual service for the purpose of re-engagement. It was felt that any casual service prior to 1.1.1981 and after 12.6.1988 should not be recognised for the purpose of re-engagement. The Department itself has recognised 1.1.1981 as the date of commencement of 10 years of service for the purpose of regularisation. The deadline of 12.6.1988 is based on the order issued by the Department banning totally engagement of casual labour.

b) The condition of being sponsored by the Employment Exchange having been relaxed till 12.6.1988, that condition will not apply for recognising casual service between 1.1.1981 and 12.6.1988.

c) As e time measure, applications will be invited from all those who have been in casual employment between 1.1.1981 to 12.6.1988 on a Sub Division wise basis for preparing Sub Divisional list of such casual mazdoor which only will be tapped exclusively for future engagement of casual employees. The aforesaid list will be prepared strictly on the basis of length of casual service put in by ignoring the breaks.

d) The burden of proof of casual service between the aforesaid two dates will be on the casual employees but the respondents shall not reject summarily any certificate of such employment merely because the certificate had been issued by an authority not competent to issue the same. The periods & details indicated in the certificate shall be verified by the respondents through their own records.

...

e) Any bald statement of casual employment shall not be accepted. The applicants shall have to indicate in case there is no certificate, at least the muster roll Nos. and the details of their casual employment in time and place and names of officers if possible, under whom they worked.

f) The Department will implement the ban of casual employment scrupulously and shall not engage any person who is not in the approved list without first giving employment to those who are included in the aforesaid list, except in case of emergency. Engagement under emergent condition will be recognised as such only if it does not last beyond 7 days. Even an engagement under emergency condition shall not be made outside the aforesaid list if persons from the approved list or in the aforesaid 1981 list are immediately available.

g) It is made clear that the aforesaid suggestions have been made for the limited purpose of reengagement and not for regularisation for which a separate scheme is under operation.

The learned counsel for the respondents Shri TPM Ibrahimkhan joined by the learned counsel for the respondents in other cases also sought some time to get instructions of the Department on the aforesaid suggestions. Accordingly, list for further arguments on 18.12.92.

Copy of this order be given to S/Shri MR Rajendran Nair, G.Sasidharan Chempazhanthiyil, George CP Tharakan and TPM Ibrahimkhan by hand.

A Copy of this order be placed on all these connected case files.

Sd/-
(A.V.Haridasan)
Judicial Member

Sd/-
(S.P.Mukerji)
Vice Chairman

23.11.1992