

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.253/97

Friday this the 30th day of May, 1997.

CORAM

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

HON'BLE MR. P.V. VENKATAKRISHNAN, ADMINISTRATIVE MEMBER.

1. S.P.Sunitha Rani, V.P.4/177,
Sathya Mandiram, Puthoorkonam,
Temple Lane, Manikanteswaram PO,
Vattiyoorkavu, Trivandrum.
2. P.N. Sibu Kumar, Kunnumpurathu Radha Nilayam,
Kulasekharam, Kodunganoor PO,
Thiruvananthapuram.
3. S.Rekha, T.C.26/1323 (1) Foot
Ball House, Vazhavila, Panavila Junction,
Thiruvananthapuram.
4. K.Kumaran, Plachikkalkalam,
Pallavoor, Palakkad-88.
5. S.Biju Kumar, Kunnuvila House,
Thozhukkal, Neyyattinkara PO.
Thiruvananthapuram.
6. Aravind D.Kannan, T.S.Bhavan,
T.C.II/497, Madathuvila Lane,
Medical College PO, Thiruvananthapuram.
7. SabuI, T.C. 35/592 (1)
Kailakkaghom House, Priyadarsini Nagar,
Vallakkadavu PO, Thiruvananthapuram-8.
8. Asha M.S. Nair, T.C.7/964,
Ajith Bhavan, Pangode,
Thirumala PO, Thiruvananthapuram.
9. V.G.Vijaya Kumar, Kottakkal, Veedu,
Katchani, Kottakkulam PO
Thiruvananthapuram.
- 10.O.J. Girija Kumari, Jaichandra Vilasam,
Bhagavathi Nada PO, Balaramapuram Via.
Thiruvananthapuram.1.
- 11.S.S.Maya, Kamala Vilas Puthen Veedu,
Chittazha, Vattappara PO,
Thiruvananthapuram.
- 12.R.Ajikumar, Attuvarampil Veedu,
Pangode, Thirumala PO, Thiruvananthapuram.6.
- 13.P.Rossy, T.C. 27/921,
Redcross Road, Patto Junction,
Thiruvananthapuram.

14. M. Shaji Kumar, Kuzhivila Veedu,
Marukil, Ooruttamblam PO,
Thiruvananthapuram.

15. M. Sugantha Kumari Amma,
Sankar Bhavan, Kalliyoor PO,
Kakkamoola, Thiruvananthapuram.

16. R.S.Sreelatha, Sreelatha Vilasam,..
Nilamel Neyyattinkara PO,
Thiruvananthapuram. .. Respondents

(By Advocate Mr. VB Unniraj)

vs.

1. The Accountant General (A&E)
Kerala, Thiruvananthapuram.

2. The Comptroller and Auditor,
General of India,
Bhahadur Shah Zafar Marg,
New Delhi-110 002. .. Respondents

(By Advocate Mr. P.R.Ramachandra Menon (represented)

The application having been heard on 30.5.97, the Tribunal on the same day delivered the following:

O R D E R

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

Applicants are casual labourers who had been engaged for a few days in 1995 and disengaged in the same year. Their grievance is that persons who could not have been engaged have been engaged. Therefore, the applicants have filed this application for the following reliefs:

(i) issue a writ of mandamus directing the respondents to enquire into allegation in Annexure.A2 representation filed by the applicants about the illegal and unauthorised appointment of ineligible candidates casual labourers made in the office of the Ist respondent.

(ii) Issue a direction to the Ist respondent to engage the applicant as casual labourers against the vacancies now available in the office of the Ist respondent.

(iii) grant such other reliefs as may be prayed for and which are deemed just and proper in the circumstances of the case.

2. The applicants have made the following averments. The first respondent had issued a notice on 23.12.91 proposing to engage a few more Casual Labourers in its office, from among the dependents of Group D employees and Group D promotees. Fresh applications in that behalf ~~had~~ to be, made before 10.1.92. The applicants applied and ~~were~~ selected, but they were engaged only in February, 1995. Some other labourers were engaged immediately after the selection, allowed to continue and granted temporary status during 1.9.94 to 1.3.95. Among them there were persons who ~~were~~ not dependents of Group D employees or Group D promotees. The applicants were sent out on 28.4.95. Though the applicants complained against this, there was no response. So the applicants submitted a representation on 9.11.96 (Annexure.A2). It is thereafter that the present application has been filed.

3. Respondents have in their reply contended as follows. The applicants were engaged only from 19 to 39 days. When a review as per the policy was held it became necessary to disengage about 50 casual labourers including the applicants who were found to be in excess. The disengagement was adopting the policy last come first go. No one junior to the applicants was retained. The alleged engagement of persons who according to the applicants were not eligible was made in the year 1991. The applicants have not challenged the engagement within time. The applicants had filed an application OA.776/1996 which was disposed of by order dated 9.7.96 directing disposal of the representation. The representation was considered and disposed of by a

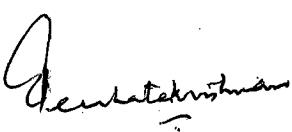
detailed order dated 29.8.96 (Annexure.R2). The applicants again made representation dated 9.11.96 which has also been disposed of by order dated 21/22-1/97 (Annexure.R.3). The application has been filed suppressing these facts and without challenging the Annexures.R2 and R3 orders. The respondents therefore, contend that the application deserves to be rejected.

4. Having perused the pleadings and having heard the learned counsel, we find nothing in this application which needs further deliberation. The applicants had earlier filed O.A.776/96 for the similar relief. The representation submitted by them was disposed of by a detailed order Annexure.R2. The representation submitted by the applicants on 9.11.96 also has been disposed of by order dated 21/22.1.97 (Annexure.R3). These facts have been suppressed by the applicants in this OA. The applicants therefore have not approached the Tribunal with clean hands.

5. On merits also there is no *prima facie* case. On account of 19 to 39 days engagement in 1995 the applicants have not acquired any right for continuous engagement. The alleged engagement of some casual labourers against the stipulation in Annexure.Al took place in 1991. That was not challenged so far. Those casual labourers are not parties to this OA. Even otherwise restriction of engagement to dependents of Group D employees is not permissible and is opposed to Articles 14 and 16 of the Constitution of India. No person with lesser length of casual service has been

retained while disengaging the applicants. Disengagement was on the basis of last come first go. Therefore, we find that the application does not merit admission. The same is rejected under Section 19(3) of the Administrative Tribunals Act, 1985. No order as to costs.

Dated the 30th day of May, 1997.


P.V. VENKATAKRISHNAN
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

ks26.

LIST OF ANNEXURES

1. Annexure A2:- True copy of the representation submitted by the applicants to the 1st respondent dated 9.11.1996.
2. Annexure R2:- True copy of the Order bearing No.DAG(A)/C.Cell/DA/776/96/187 dtd: 29.8.96 passed by the 1st respondent with postal receipts regarding registration.
3. Annexure R3:- True copy of the Order No.DAG(A)/C.Cell/DA 776/96/298 dtd: 21/22.11.1997 passed by the 1st respondent - with postal receipts regarding registration.