

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O. A. No. 273 of 1992.

DATE OF DECISION 3-6-1993

Mr MK Sundaran _____ Applicant (s)

Mr MR Rajendran Nair _____ Advocate for the Applicant (s)

Versus

The General Manager, Telecom, Respondent (s)
Ernakulam & 2 others

Mr Mathews J Nedumpara, ACGSC Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. N DHARMADAN, JUDICIAL MEMBER

&

The Hon'ble Mr. R RANGARAJAN, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement? Y
2. To be referred to the Reporter or not? U
3. Whether their Lordships wish to see the fair copy of the Judgement? U
4. To be circulated to all Benches of the Tribunal? U

JUDGEMENT

N Dharmadan, Judicial Member.

The applicant who claims that he has got prior service filed this application under Section 19 of the Administrative Tribunals Act challenging Annexure-I order passed by the Assistant Engineer(Admn.), Ernakulam disposing of his representation dated 12.8.1991. The said order is extracted below:

"The representation of Sri Sundaran MK has been carefully considered and it is to be intimated that there is no provision in the rules to re-employ any casual mazdoor whose absence is more than 6 months and rules do not permit any fresh in take of mazdoor after 31.3.85."

2. According to the applicant, he worked from 1.2.1986 to 31.3.1986. He has produced the certificate to establish his prior service. Since he was denied re-engagement, he filed representation

for getting re-engagement as casual mazdoor. The said representation was rejected by passing the impugned order.

3. When the case was taken up for final hearing, the learned counsel for the applicant produced before us a judgement in OA-1170/92 and submitted that this case can also be disposed of following the observations contained in the judgement. We have gone through the judgement. The relevant portion of the judgement is extracted below:

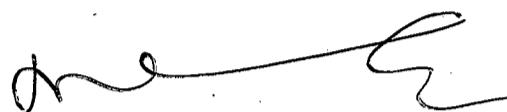
"Having heard the counsel on both sides, we are not satisfied with the reasons which are mentioned in the impugned order. The stand taken by the respondents that the name of applicant cannot be considered for re-engagement because he has not worked in the Department before 30.3.85 cannot be accepted. The applicant has been engaged notwithstanding Annexure R-1 ban order. Applicant has stated in para 3 and also in ground-D that number of persons have been engaged and they are even now been continuing notwithstanding the ban order. Respondents have not given satisfactory reasons dealing with the averments in the OA."

4. The facts of this case are more or less same and we are of the view that this application can be disposed of in the light of the decision of this Tribunal in OA-1027/91 and other decisions rendered by Hon'ble Supreme Court and other Courts dealing with the same issue. We have also disposed of similar cases with appropriate directions to the competent authority to re-examine the matter again in the light of the law laid down by the Courts as referred to above.

5. Accordingly, we set aside Annexure-I impugned order and direct the 1st respondent to consider the case of the applicant for re-engagement in the light of the facts stated above. He shall take a decision and dispose of the claim in accordance

with law as expeditiously as possible.

6. In the meantime, we also make it clear that the interim order passed by this Tribunal on 16.3.1993 be maintained till the implementation of the directions referred to above. The application is disposed of as above. There will be no order as to costs.



(R RANGARAJAN)
ADMVE. MEMBER


3-6-93

(N DHARMADAN)
JUDICIAL MEMBER

3-6-1993

trs

THE CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O. A. No. 1170 1992.

DATE OF DECISION 19.8.93

V. Udayakumar Applicant (s)

Mr. M.R. Rajendran Nair Advocate for the Applicant (s)

Versus

Sub Divisional Officer, _____ Respondent (s)
Telegraphs, Alathur and another

Mr. M.V.S. Nampeethiry, ACGSC Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr.N. DHARMADAN JUDICIAL MEMBER

The Hon'ble Mr. R. RANGARAJAN ADMINISTRATIVE MEMBER

JUDGEMENT

MR. N. DHARMADAN JUDICIAL MEMBER

Applicant is aggrieved by Annexure-I order passed on the representation of the applicant for getting re-engagement and regularisation. The said order is extracted below:

"With reference to your representation dated 11.8.92 I regret to inform you that you have not been worked in this Department before 30.3.95. Your name cannot be considered for re-engagement and regularisation."

2. According to the applicant he was engaged as a casual mazdoor under T. Chandran, Lineman Phones, Telephone Exchange Managalam Dam from 13.7.89 to 2.5.90. Thereafter, he was denied work and he filed a representation for getting re-engagement. The said representation was disposed of by the aforesaid impugned order.

3. In the reply respondents have admitted in past service of the applicant for 41 days from 6.9.89 to 2.5.90. But they have contended that there is a ban order from 30.3.1985 restraining respondents from recruiting fresh casual employees. According to them applicant has been engaged after the ban order and the engagement is illegal.

4. Having heard counsel on both sides, we are not satisfied with the reasons that are mentioned in the impugned order. The stand taken by the respondents that the name of applicant cannot be considered for re-engagement because he has not worked in the Department before 30.3.85 cannot be accepted. The applicant has been engaged notwithstanding Annexure R-1 ban order. Applicant has stated in para 3 and also in ground-D that number of persons have been engaged and they are even now been continuing notwithstanding the ban order. Respondents have not given satisfactory reasons dealing with the averments in the O.A.

5. In this view of the matter, we are unable to sustain Annexure-I order. Accordingly, we quash the same and allow the application. First respondent may pass fresh orders considering the contentions.

6. There will be no order as to costs.

Sd/

(R. RANGARAJAN)
ADMINISTRATIVE MEMBER

Sd/

(N. DHARMADAN).
JUDICIAL MEMBER

19.4.93

CERTIFIED TRUE COPY

Date 29.4.93

Deputy Registrar

