

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

.....

O.A. 274/93

Tuesday, this the 18th day of January, 1994

CORAM

Shri N.Dharmadan, Judicial Member &
Shri S.Kasipandian, Administrative Member

Smt. P.P.Radha,
House No. V/139A,
Mundayad Road,
Chovva, Kannur. Applicant

By Advocate Shri M.R.Rajendran Nair

Versus

1. Senior Supdt. of Telegraph Traffic,
Calicut Division,
Calicut.
2. The Asstt. Supdt. of Telegraph
Traffic,
(TT I/C), CTO, Mannur. Respondents

By Shri Mathew G. Vadakkal

O R D E R

N.Dharmadan, JM

A part-time Farsh-cum-Water Carrier is before us.

She is aggrieved by the denial of grant of temporary status and consequential benefits in accordance with the scheme framed by the Department. She filed the application with the following prayers:

- "i) To declare that applicant is entitled to be granted temporary status in accordance with the temporary status scheme and to be regularised as full time Farash-cum-water carrier.
- ii) Direct the respondents to grant temporary status to applicant accordingly and regularise her in the post of Full Time Farash Cum Water Carrier with effect from the date of occurrence of vacancy."

2. The facts are admitted. Applicant was working in the aforesaid post from 16.9.87. She filed Annexure-I representation for getting temporary status and consequential benefits. The second respondent issued Annex.II communication to the applicant directing her to produce appointment order

for considering the request of the applicant. Since she was engaged without issuing a formal appointment order, she is not in a position to comply with the direction in Annex.II. However, the fact remains that the applicant is even now continuing in service without any break ever since 1987. A post of Farash-cum-Water Carrier is available in the office. These facts are stated by the applicant in Annex.I representation. Applicant also placed reliance on a judgement of this Tribunal in OA 201/92, a copy of which is produced as Ann.III. According to her she is similarly situated like the applicant in that case.

3. The only contention raised by the respondents to deny the claim of the applicant for getting the benefit of Ann.III judgement and temporary status is that the applicant is doing the work as per contract and hence she is not entitled to get temporary status and consequential benefits as claimed in the O.A.

4. The fact that the applicant commenced service on the basis of the contract is admitted, but on account of her continuous service from 1987 till date, she gets the status of an employee. Her relationship with the respondents is protected by the provisions of the Statutes governing the matter. In addition to the judgement Ann.III, the applicant also relied on a scheme for granting temporary status to casual employees issued by the Director General. Clause 2(i) of the said scheme reads as follows:

"The matter has further been examined in this office and it is decided that all those casual mazdoors who were engaged by the Circles during the period from 31.3.85 to 22.6.88 and who are still continuing for such works in the Circles where they were initially engaged and who are not absent for the last more than 365 days counting from the date of issue of this order, be brought under the above said scheme."

In the light of the scheme which was in force in 1989, the applicant is entitled to temporary status as claimed in the O.A. This question was also specifically considered by this

Tribunal in Annex.III judgement.

4. Since it is covered by the earlier judgement of this Tribunal Ann.III and the scheme referred to above, we are of the view that the contention of the respondents cannot be accepted and the applicant is entitled to succeed.

5. Accordingly, we declare that the applicant is entitled to get temporary status and all other consequential benefits from the date of eligibility in accordance with the scheme.

6. The OA is allowed as above. No costs.

S. Kasipandian
(S. Kasipandian)
Member (A)

N. Dharmadan
18.1.93
(N. Dharmadan)
Member (J)