

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A.No.288/93

Tuesday, this the 18th day of January, 1994.

SHRI N DHARMADAN, MEMBER(J)
SHRI S KASIPANDIAN, MEMBER(A)

K Mohankumar,
S/o Kochappy K,
Aged 33 years, TC-9/252,
Jawahar Nagar PO, Trivandrum. - Applicant

By Advocate Mr MR Rajendran Nair

Vs

1. Sub Divisional Officer, Telephones, North, Trivandrum.
2. Chief General Manager, Telecom, Kerala Circle, Trivandrum.
3. Union of India represented by Secretary to Government of India, Ministry of Communication, New Delhi. - Respondents

By Advocate Mr K Karthikeya Panicker, ACGSC

O R D E R

N DHARMADAN, MEMBER(J)

Applicant is an approved casual mazdoor having prior service under the first respondent from 1984. He is aggrieved by the denial of reengagement with bottom seniority.

2. According to him, from 1984 to 14.2.1986 he served as a casual mazdoor. Since he sustained an injury in the course of employment, he could not continue in service. He produced Annexure-III certificate from the Medical authority to show that from 14.12.1986 to 20.2.1989, he was undergoing treatment. Annexure-IV representation was filed on 15.9.1992 for getting reengagement and regularisation in service. That representation has not been disposed of so far.

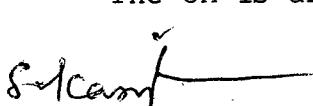
3. The respondents have filed a reply and admitted the prior service of the applicant but contended that the applicant is not eligible for reengagement, for he abandoned job in 1986.

4. Shri MR Rajendran Nair, the learned counsel for applicant submitted that the name of the applicant has not been removed from the list of approved casual mazdoor. So long as his name has not been removed from the list, the case of abandonment cannot be accepted. His right to continue in service is kept alive.

5. We have heard the learned counsel for the respondents. The respondents have no case that the applicant has come with a false claim. The statement that the applicant was undergoing treatment as evidenced by Annexure-III has not ~~been~~ disbelieved by the respondents. The statements in the medical certificate Annexure-III are ^{also} ~~not~~ denied and it was not found unacceptable. It has been issued by a competent medical authority. In the light of the medical certificate produced by the applicant and the statement that the applicant was undergoing treatment during the period of his absence, we are of the view that the applicant's case deserves consideration. He is entitled to be reinstated in service provided work is available.

6. In the result having regard to the facts and circumstances of this case, we dispose of the application directing the first respondent to reengage the applicant considering his past service provided work is available. He is also entitled to consequential regularisation in accordance with law and his turn.

7. The OA is disposed of as above. No costs.


(S KASIPANDIAN)
MEMBER(A)


(N DHARMADAN)
MEMBER(J)