

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A.No.291/03

Thursday this the 6th day of November 2003

C O R A M :

HON'BLE MR. A.V.HARIDASAN, VICE CHAIRMAN  
HON'BLE MR. H.P.DAS, ADMINISTRATIVE MEMBER

K.Sisupalan  
Group D, Office of the Director  
of Accounts (Postal),  
Trivandrum.

Applicant

(By Advocate Mr.Thomas Mathew)

Versus

1. Senior Accounts Officer,  
(Administration) Office of  
the Director of Accounts (Postal),  
Kerala Circle, Trivandrum.
2. Director of Accounts (Postal)  
Kerala Circle, Trivandrum.
3. Chief Post Master General,  
Kerala Circle, Trivandrum.
4. Director General,  
Department of Posts,  
New Delhi.
5. Union of India represented by  
its Secretary, Department of Posts,  
New Delhi.

Respondents

(By Advocate Mr.C.Rajendran,SCGSC)

This application having been heard on 6th November 2003  
the Tribunal on the same day delivered the following :

O R D E R

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

The applicant who commenced service as casual labour in the Postal Department was granted temporary status with effect from 28.2.1996 and was treated on par with temporary Group D employees with effect from 28.2.2000 by order dated 27.3.2000 (Annexure A-1). He was granted annual increments. While so, he was regularised by Annexure A-2 order dated 5.6.2000. However his pay was fixed at the minimum of the scale Rs.2550-3200,

although on account of the increments drawn the applicant was at the time of regularisation drawing a basic pay of Rs.2720/-. The applicant submitted a representation to Deputy Director of Accounts (Postal), Trivandrum on 8.4.2002 referring to the decision of the Ernakulam Bench of the Tribunal in O.A.1373/99 in an identical case and the decision of the Hon'ble High Court of Kerala upholding the decision of this Bench and seeking identical reliefs. The representation was turned down by order dated 18.3.2003 (Annexure A-8) wherein it was stated that as the Directorate had intimated that it would not be appropriate to extend the benefit of the judgement in that case to the applicant, his representation was rejected. Aggrieved the applicant has filed this application seeking to set aside impugned order Annexure A-2 to the extent that his pay has not been properly fixed as also Annexure A-8 declaring that the fixation of pay of the applicant on regularisation taking away the increments on pay already drawn and paid is illegal, arbitrary, unfair and unjust and to grant the applicant consequential benefits.

2. The respondents in their reply statement resist the claim of the applicant. They admit that the applicant is similarly situated as the applicant in O.A.1373/99 but contend that as the Government has not issued any order revising the method of fixation of pay on regularisation of service of casual labour, the benefit of the judgement cannot be extended to the applicant.

3. The applicant has filed a rejoinder wherein he reitiated his claim and has stated that denying the benefit to similarly situated employees is against the well accepted principles and the decision of the Apex Court in Aswani Kumar & ors. Vs. State



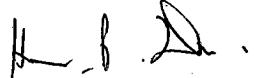
of Bihar & ors. 1997 2 SCC (1).

4. On a perusal of the pleadings and the materials brought on record, we find that the stand of the respondents that the claim of the applicant for fixation of pay on regular appointment on a Group D reckoning the increment drawn by him after being treated on par with temporary Government servant is not sustainable. The identical issue was considered by the Tribunal in O.A.1373/99. The Bench noted that the Telecom Department had issued an order dated 21.12.1992 governing identical situation and ordered that the pay of a temporary status mazdoor, on his/her regularisation on Group D post, should be fixed with reference to the pay last drawn in that scale as temporary status mazdoor taking into account the increments already paid. It was held that what was good for Telecom Department was also good for Postal Department and that there was no justification in reducing the pay when a temporary status casual labour treated as temporary is made a regular group D employee. The claim of the applicant for fixing pay reckoning the increments drawn by him as temporary employee was allowed by the Bench. Dissatisfied by the decision, the Department of Posts carried the matter before the Hon'ble High Court of Kerala in O.P.13244/01. The High Court of Kerala found that there was no reason to interfere with the decision of the Tribunal which reflected the proper and correct legal position. The facts and circumstances being exactly same, we do not find any reason to take a different view of the matter. The applicant was therefore entitled to reckon the last pay drawn by him while regularly appointed to the Group D post. We declare that the applicant is entitled to have his pay fixed on regularisation taking the increments on pay already drawn by him as temporary

✓

status casual labour. We direct the respondents to issue orders refixing the applicant's pay accordingly and to make available to him consequential monetary benefits within two months from the date of receipt of a copy of this order. No costs.

(Dated the 6th day of November 2003)

  
H.P.DAS  
ADMINISTRATIVE MEMBER

  
A.V. HARIDASAN  
VICE CHAIRMAN

asp