

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.NO.31/1999

Tuesday this the 3rd day of October, 2000

CORAM

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

Satheeshkumar P S/o C.Kumaran Nair,
aged 29 years, Sree Prasanthu,
East Vennakara,
Nooranay PO,
Palakkad.

...Applicant

(By Advocate Mr. M.R.Rajendran Nair)

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1. The Sub Divisional Officer,
Telephones, Palakkad.
 2. The Telecom District Manager,
Palakkad.
 3. The Chief General Manager,
Telecom, Kerala Circle,
Trivandrum.
 4. Union of India, represented by the
Secretary to Government of India,
Department of Telecommunications,
New Delhi.
- Respondents

(By Advocate Mrs. S.Chitra)

The application having been heard on 3.10.2000, the Tribunal on the same day delivered the following:


O R D E R

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

This is the fourth round of litigation for reengagement and regularisation etc. of the applicant. Though the applicant had claimed several reliefs, when the application came up for hearing today, learned counsel appearing for the applicant stated that in this application the applicant would now restrict the claim to the prayer to quash Annexure.A10 and the rest of the matter may be left open to be agitated in separate proceedings if need be.

Hence the consideration in this case is restricted to the prayer in sub para (i) (a) of para 8 of the Original Application. The facts in short are as follows:

2. The applicant was initially engaged in the year 1985 as a casual labourer. His name was included in the list of approved casual mazdoors as is seen from Annexure.A1. However, the name of the applicant was deleted from the list of approved casual mazdoors by order dated 14.1.87 (Annexure.A2), but the applicant continued in engagement. When the services of the applicant and similarly situated four others were discontinued and were not given further engagement they jointly filed O.A.1517/92. The above application was dismissed on the ground that it was premature as no claim had been put forth by the parties before the department. The applicant and four others made representations claiming reengagement but without any response. Therefore again they jointly filed O.A.2234/93. In the reply statement filed in the above application, the respondents therein who are the respondents in this application too conceded the engagement of the applicant till November, 1990 under ACG 17 and denied their right to claim reengagement as they were not approved casual mazdoors. However, the application was disposed of directing the respondents to give the applicants an order on their representation. In obedience to the directions contained in the order of the Tribunal, the respondents issued an order again rejecting the claim of the applicants for reengagement on the ground of non-availability of



records showing their past engagement. Dissatisfied and aggrieved by that the applicant and four others filed the third application O.A.216/95. Taking note of certain admission in the reply statement in O.A. 2234/93, the Tribunal disposed of O.A. 216/95 directing the respondents to consider the case of the applicants for reengagement in the light of the statements made in the said reply statement. In obedience to the above, the respondents gave an order dated 28.11.95 (A9) telling the applicant and four others that their claim for inclusion in the list of approved mazdoors could not be acceded to and that their claim for empanelment would be considered in the light of the directions contained in the order of the Tribunal in O.A. 1402/93 after the disposal of the SLP which was pending before the Apex Court. After the Apex Court dismissed the SLP, the impugned order Annexure.A10 in this case was issued in which the applicant's name was not shown in the list of persons who are entitled to be included in the panel on the ground that he did not approach for reengagement for a period of three years. Impugning that the applicant has filed this application. It has been alleged in the application that there are records to show that the applicant was in engagement atleast until November, 1990 as conceded by the respondents in the reply statement in O.A. 2234/93 and that therefore the ground on which the claim of the applicant for empanelment has been rejected is unsustainable in law.

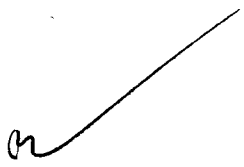


3. The respondents have filed a detailed reply statement resisitng the claim of the applicant.

4. I have heard the learned counsel on either side. The sole question that calls for determination is whether the applicant has put forth a claim for reengagement within three years of his last engagement as a casual mazdoor. In the reply statement filed by the respondents in this case, who are respondents in O.A. 2234/93 it is stated as follows:

"Regarding para 4(1) of the Original Application, it is submitted that the names of the applicants were deleted from the list of approved mazdoors, by Annexure.II as it was found out on reexamination that the work done by them did not qualify the applicants to be included in the list of approved mazdoors. It is respectfully submitted that there were two types of engagements of manual labour in the Departemnt, via., (a) for urgent works of a purely casual nature of short duration authorised departmental officials engage manual labour. Immediately on completion of the work they are paid wages and their receipts taken in Form ACG-17. No other record of the person concerned or such engagements are maintained in the Departemnt. Even, the receipts in Form ACG-17 are preserved for a period of three years. (b) in the other types of engagements, the appropriate gazetted officer issues a work order in the prescribed form with full details of work, duration., Number of Mazdoors and days, etc. This is resorted to, wh en the work is important and of a long duration. Payment in such cases are normally made by the Gazetted Officer concerned. Full details of the work done in this manner are preserved and the number of days of work of each mazdoor is taken into account for the purpose of regular absorption in the Department.

In the present case, the applicants were mainly engaged as per procedure explained in (a) above. ie., for urgent works of a purely casual nature of short duration. Owing to an oversight their names were included in the list of approved mazdoors. The mistake was found out on further verification of the records that the applicants had not worked on Muster




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Rolls and therefore their names were deleted from the said list. However, despite deletion of their names from the approved list, the applicnats were continued to be engaged as per procedure (a) above. From November, 1990 onwards they were engaged by the Contractors."

4. A mere reading of these two paragraphs would make it clear that the applicant was included in the list of approved casual mazdoors earlier though his name was removed from the List in 1987 but he had continued in engagement for work of casual nature for short duration under ACG 17 till November, 1990 and thereafter his engagement was under a contractor. The applicants having approached the Tribunal in 1992 by OA 1517/92 along with four others even before the expiry of a period of two years from the date of the conceded last engagement, I have no hesitation to hold that the ground on which the applicant's claim for inclusion as an unapproved casual mazdoor for future engagement cannot be sustained.

5. In the result, the impugned order Annexure. A.10 is set aside to the extent that it makes the applicant ineligible for empanelment on the ground that he did not seek reengagement within a period of three years and the respondents are directed to include the name of the applicant on appropriate place in the list of unapproved casual mazdoors and to consider him for engagement in the same manner as unapproved casual mazdoors are being engaged.



6. The application is disposed of as above. The aforesaid direction shall be complied with within a period of two months from the date of receipt of a copy of this order. There is no order as to costs.

Dated the 3rd day of October, 2000


A.V. HARIDASAN
VICE CHAIRMAN

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List of annexures referred to:

Annexure.A1: True copy of the order dated 7.10.1986 No.E.85/86/87
113 issued by the 1st respondent.

Annexure.A2: True copy of the order dated 14.1.1987
No.E.85/86-87/II/85 issued by the 1st respondent.

Annexure.A9: True copy of the order dated 28.11.1995
No.OA.216/95/28 issued by the Divisional Engineer
(Administration) for 2nd respondent.

Annexure.A10: True copy of the letter
No.E.35/Mazcoors/General/IX/54 dated 26.3.1999
issued by the 2nd respondent.

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