

7
INTERIM ORDER

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

M.G. Road,
Kochi - 11.

MONDAY THE 12TH DAY OF OCTOBER, 1992.

P R E S E N T

Hon'ble Mr. S.P. Mukerji Vice Chairman
and
Hon'ble Mr. A.V. Haridasan Judicial Member

ORIGINAL APPLICATION NO.1027/91

A. Mohanan ... Applicant
Versus
UOI, SDO(T), Palghat & ... Respondents
2 others
Mr. MR Rajendran Nair ... Counsel for applicant(s)
Mr. George Joseph ... Counsel for respondent(s)

O R D E R

Heard the learned counsel for the parties in part on all the group of cases about re-engagement of casual labourers. Shri TPM Ibrahim Khan, ACGSC on behalf of all other counsel appearing in all these applications fairly suggested that a further time be given to the respondents to thrash out a scheme for re-engagement of casual workers who had been engaged prior to a certain date and considering their case on the basis of the length of casual service put in by them. He also mentioned the inevitability of the departmental staff engaging casual labour for emergency work when there is no time to approach the Employment Exchange or consult the list of approved mazdoors. He however, accepted that such casual employment outside the Employment Exchange or outside the list cannot continue for more than a few days or after the emergency situation is removed. He also accepts the possibility of maintaining the Sub Division-wise panel of casual workers for the purpose of re-engagement so that the element of arbitrariness is removed and the doubts expressed by the Hon'ble Supreme Court about such casual engagement of labour are avoided. The learned counsel for the applicant mentioned that most of the complications and arbitrariness in such

... appointments have arisen because of the imposition of a rigid and unrealistic ban on employment of casual mazdoor on one hand and the unavoidable situation of engaging casual mazdoor to meet local emergency needs continuously. This aspect also should be kept in mind in the light of the Supreme Court judgement, in the preparation of the scheme of re-engagement of casual mazdoors. Shri Ibrahim Khan stated that after detailed discussion with the departmental officers and the Senior Central Govt. Standing Counsel, he will be able to come up with certain concrete suggestions in the above light within a period of 4 weeks. The main objective of having such a scheme is to mitigate further litigation and give justice and equity to the casual employees and to avoid the scope of arbitrary and motivated action by the local staff.

We feel that in the interest of justice and in the interest of the respondents themselves for better administration, such a scheme acceptable to all concerned will be welcome. The adjournment therefore is necessary and we grant the same. List for further arguments on 23-11-92.

A copy of this order and our order dated 1-7-1992 be made available to Shri TPM Ibrahim Khan and the SCGSC and also to the learned counsel for the applicants by hand.

A copy of this order be placed on all these connected case files.

SD/-
(AV HARIDASAN)
JUDICIAL MEMBER

SD/-
(SP MUKERJI)
VICE CHAIRMAN

12-10-92

Encl:- Alongwith copy of order dated 1-7-92

To

Original Application No.

Counsel for
applicant

Counsel for
respondents

1027/91, 1691/91, 1200/91,
1458/91, 1485/91, 1622/91,

Mr. MR Rajendran Nair

Mr. George Joseph
ACGSC

23.11.92

Mr.MR Rajendran Nair
Mr.Sasidharan Chempazhanthiyil
Mr.Poly Mathai for SCGSC
Mr.TPM Ibrahimkhan, ACGSC

We have heard the learned counsel for all the parties in the bunch of cases at Sl.No.14 to 117 in the cause list of today. The General suggestions which emerged from the discussions are as follows:

- a) There should be two deadlines for recognising casual service for the purpose of re-engagement. It was felt that any casual service prior to 1.1.1981 and after 12.6.1988 should not be recognised for the purpose of re-engagement. The Department itself has recognised 1.1.1981 as the date of commencement of 10 years of service for the purpose of regularisation. The deadline of 12.6.1988 is based on the order issued by the Department banning totally engagement of casual labour.
- b) The condition of being sponsored by the Employment Exchange having been relaxed till 12.6.1988, that condition will not apply for recognising casual service between 1.1.1981 and 12.6.1988.
- c) As a time measure, applications will be invited from all those who have been in casual employment between 1.1.1981 to 12.6.1988 on a Sub Division wise basis for preparing Sub Divisional list of such casual mazdoor which only will be tapped exclusively for future engagement of casual employees. The aforesaid list will be prepared strictly on the basis of length of casual service put in by ignoring the breaks.
- d) The burden of proof of casual service between the aforesaid two dates will be on the casual employees but the respondents shall not reject summarily any certificate of such employment merely because the certificate had been issued by an authority not competent to issue the same. The periods & details indicated in the certificate shall be verified by the respondents through their own records.

...

10

- e) Any bald statement of casual employment shall not be accepted. The applicants shall have to indicate in case there is no certificate, at least the muster roll Nos. and the details of their casual employment in time and place and names of officers if possible, under whom they worked.
- f) The Department will implement the ban of casual employment scrupulously and shall not engage any person who is not in the approved list without first giving employment to those who are included in the aforesaid list, except in case of emergency. Engagement under emergent condition will be recognised as such only if it does not last beyond 7 days. Even an engagement under emergency condition shall not be made outside the aforesaid list if persons from the approved list or in the aforesaid 1981 list are immediately available.
- g) It is made clear that the aforesaid suggestions have been made for the limited purpose of reengagement and not for regularisation for which a separate scheme is under operation.

The learned counsel for the respondents Shri TPM Ibrahimkhan joined by the learned counsel for the respondents in other cases also sought some time to get instructions of the Department on the aforesaid suggestions. Accordingly, list for further arguments on 18.12.92.

Copy of this order be given to S/Shri MR Rajendran Nair, G.Sasidharan Chempazhanthiyil, George CP Tharakan and TPM Ibrahimkhan by hand.

A Copy of this order be placed on all these connected case files.

Sd/-
(A.V.Haridasan)
Judicial Member

Sd/-
(S.P.Mukerji)
Vice Chairman

23.11.1992

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

RA 76/93, RA 77/93, RA 78/93, RA 79/93, RA 80/93 & RA 82/93

Date of decision: 5-8-1993

RA 76/93 in OA 311/92

AC Kamalakshi

Review applicant

Mr MR Rajendran Nair

Advocate for Review applicant

Versus

- 1 The Telecom District Manager, Calicut.
- 2 The General Manager, Telecommunications, Calicut.
- 3 The Chief General Manager, Telecommunications, Kerala Circle, Trivandrum.
- 4 Union of India, rep. by Secretary to Government, Ministry of Communications, New Delhi.

Respondents

Mr George Joseph, ACGSC

Advocate for respondents

RA 77/93 in OA 1227/91

G Haridas

Review applicant

Mr MR Rajendran Nair

Advocate for Review applicant.

Versus

- 1 Union of India rep. by Secretary to Government, Ministry of Communications, New Delhi.

Respondents.

2 The Sub Divisional Officer, Telegraphs, Kayamkulam.

Respondents.

Mr George CP Tharakan, SCGSC

Advocate for respondents

RA 78/93 in OA 1149/91

K Vijayan Pillai

Review applicant

Mr MR Rajendran Nair

Advocate for review applicant.

Versus

- 1 Union of India rep. by Secretary, Ministry of Communications, New Delhi.

Respondent.. Contd.page-2/

16

- 2 The Sub Divisional Officer, Telegraphs, Kayamkulam.
- 3 The Sub Divisional Officer, Telegraphs, Mavelikkara.
- 4 The Telecom District Engineer, Alapuzha.
- 5 Shri Sivasankara Pillai, Sub Inspector, Telephone Exchange, Mavelikkara

Mr TPM Ibrahim Khan

Respondents

Advocate for respondents.

RA 79/93 in OA 1557/91

S Unnikrishnan

Review applicant

Mr MR Rajendran Nair

Advocate for review applicant.

Versus

- 1 The Sub- Divisional Officer, Telegraphs, Mavelikkara.
- 2 The Chief General Manager, Telecom, Kerala Circle, Trivandrum.
- 3 Union of India rep. by the Secretary, Ministry of Communications, New Delhi

Mr V Ajit Narayanan

Respondents

Advocate for respondents

RA 80/93 in OA 731/91

- 1 Mohammed Ismail
- 2 Parameswaran Kutty
- 3 Mr MR Rajendran Nair

Review applicants
Advocate for review applicant.

Versus

- 1 Union of India rep. by Secretary, Ministry of Communications, New Delhi.
- 2 The Chief General Manager, Telecom, Trivandrum.
- 3 The Telecom District Manager, Alapuzha.
- 4 The Sub Divisional Officer, Telegraphs, Alapuzha.

Mr TPM Ibrahim Khan

Respondents

Advocate for review applicants

RA 82/93 in OA 95/92

B Venugopal Nair

Review applicant

Mr MR Rajendran Nair

Advocate for review
applicant.

Versus

1 Sub Divisional Officer, Telegraphs,
Adeor.

2 The Telecom District Engineer,
Thiruvalla.

3 The Chief General Manager,
Telecom, Kerala Circle,
Trivandrum.

4 Union of India rep. by Secretary,
Ministry of Communications,
New Delhi

Respondents

Mr George Joseph, ACGSC

Advocate for respondents.

CORAM

HON'BLE MR N DHARMADAN, JUDICIAL MEMBER

AND

HON'BLE MR R RANGARAJAN, ADMINISTRATIVE MEMBER

JUDGMENT

N DHARMADAN, JM

All these R.As have been filed for review of the common judgment rendered by this Tribunal on 8.4.93 in OA 1027/91 and connected cases. They are applicants in specific cases referred^{to} and discussed in the same.

2 The complaints of the review applicants is that they have not ^{been} given an opportunity to place the facts of individual cases for consideration, for the cases were heard only for laying down the principles. According to them, they are prejudiced and handicapped because of the findings and disposal of individual cases without correctly appreciating the facts therein.

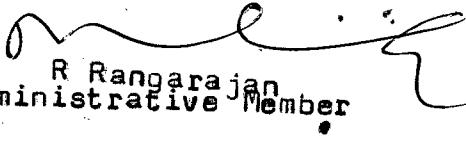
3 Having heard the learned counsel on both sides, we are of the view that this is not a ground for review.

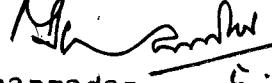
If any of the applicants is aggrieved by the combined disposal of the cases at the time of final hearing, it is for such applicant to take the matter in appeal.

4 This Tribunal considered the relevant facts and laid down the principles to be followed in all the cases. While considering the facts in individual cases, they may have some omissions of facts, but that cannot be taken as a ground for review of the common judgment as contended by the learned counsel for applicant.

5 Under these circumstances, having heard the learned counsel on both sides, we are satisfied that there is no substance for review of the above judgments and all the R.As are liable to be dismissed. We do so. However, while rejecting the R.As, we make it clear that the review applicants have the freedom to file separate representations, if they desire to file such representations before the concerned Divisional Heads, notwithstanding dismissal of the O.As and R.As. If such representations are filed as indicated above, we hope that the authorities concerned will dispose of the same in accordance with law and applying the principles laid down by this Tribunal in this common judgment and other cases of this Tribunal and Supreme Court dealing with the rights for re-engagement of casual employees.

6 There shall be no order as to costs.


R. Rangarajan
Administrative Member


N. Dharmadhan
Judicial Member

5.8.93