

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O. A. No. 313/92

199

DATE OF DECISION 12.1.93

P. Muralee

Applicant(s)

M/s MR Rajendran Nair

Advocate for the Applicant(s)

The Sub Divisional Officer,
Telegraphs, Kannur and
others

Respondent(s)

Mr P Sankarankutty Nair, ACGSC

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. AV Haridasan, Judicial Member

and

The Hon'ble Mr. R Rangarajan, Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? No
3. Whether their Lordships wish to see the fair copy of the Judgement? Yes
4. To be circulated to all Benches of the Tribunal? Yes

JUDGEMENT

Shri AV Haridasan, J.M

The applicant who has been working as casual labourer under Respondent-1 from 1.4.86 has filed this application under Section 19 of the Administrative Tribunals Act of 1985 for the following reliefs:

- " 1. Direct the respondents to grant temporary status to the applicant with effect from the date of his engagement and pay him all consequential benefits to regularise the service of the applicant considering his past service in preference to anybody with lesser number of days.
- " 2. Direct the respondents to enlist the name of the applicant in the list maintained for casual mazdaers with appropriate seniority, continue giving employment to the applicant approve him in service and regularise in his due turn.
- " 3. Grant of cost of this Original Application."

2 It has been averred in the application that from 1.4.86 to 31.3.87 the applicant has worked for a total number of 255 days, that from 1.4.87 to 31.3.88 he worked for 260 days, that from 1.4.88 to 31.7.89 he worked for 180 days, that from 1.8.89 to 31.3.90 he worked for 90 days and that the applicant still continues to be casually engaged. The applicant, therefore, claims that to deny him the benefit of temporary status and to leave him out of consideration for regularisation in service would amount to violation of the Fundamental Rights of equality guaranteed under Articles 14 & 16 of the Constitution.

3 The respondents have taken a stand that the applicant being engaged as a casual mazdoor after 30.3.85 when there was a ban on engagement of casual mazdoors has no right to claim either temporary status or regularisation.

4 We have heard the counsel on either side and have carefully gone through the pleadings and the connected papers. An exactly similar question arose for consideration before the Division Bench of which one of us (AV Haridasan) was a party in (DA 201/92) in which a casual mazdoor who was engaged for the first time in the year 1986 was not considered for grant of temporary. The same contention as ~~xxxxxxxxxx~~ in this case was put forth by the respondents in that case. The contention was rejected by the Bench on the ground that in the circular of the Department of Personnel & Training No.49914/4/90-Estt (C) dated 8.4.91 it was made clear that casual labourers engaged prior to 7.6.88 though not sponsored by the Employment Exchange

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should also be considered for regularisation in Group D posts provided they are eligible and suitable in all respects. The Bench also referred to D.M. No.49-95/87-SPB-I dated 12.4.91 wherein it was stated in paragraph 1 and 8 which read as follows:-

" 'Temporary Status' would be conferred on the casual labourers in employment as on 29.11.89 and who continue to be currently employed and have rendered continuous service of at least one year. During the year they must have been engaged for a period of 240 days (206 days in the case of offices observing five days weeks.)"

XX.

XX

XX

"8. After rendering three years' continuous service after conferment of temporary status, the casual labourers would be treated at par with temporary group D employees for the purpose of contribution to General Provident Fund. They would also further be eligible for the grant of Festival Advance/Flood Advance on the same conditions as are applicable to temporary group D employees, provided they furnish two sureties from permanent Govt. servants of this Department."

Basing on these circulars the Bench observed that casual labourers recruited for engagement prior to 7.6.88 if they continued in service in 1991 should be considered for grant of temporary status and regularisation on their satisfying the conditions stipulated therein. On that basis, the D.A 201/92 was allowed directing that the applicant in case should be considered for grant of temporary status and regularisation in accordance with casual labourers grant of temporary status and ~~not~~ deviate regularisation scheme. We have no reason to/ from the view taken by the Bench in DA 201/92. The applicant in this case is in all respects identically situated as the applicant in that case and even according to the admission of the respondents the applicant had in the years 1986-87

worked physically for more than 240 days in a year.

5 In the above circumstances, we allow the application to the extent of directing the respondents to consider the applicant for grant of temporary status in his turn and regularisation/in accordance with casual labourers' grant of temporary status and regularisation scheme which is in operation in the department.

6 There will be no order as to costs.


(R Rangarajan)

Administrative Member


(AV Haridasan)

Judicial Member

12.1.93