

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A.No.767/93 &

O.A.No.32/94

Thursday, this the 17th day of March, 1994

SHRI N DHARMADAN(J)

SHRI S KASIPANDIAN(A)

OA-32/94

G Narayanan,
Temporary Status Mazdoor,
Telephone Exchange,
Valayar, Palghat.

- Applicant

By Advocate Mr Shafik MA

Vs.

1. Sub Divisional Officer,
Telephones, Palghat Division,
Palghat.
2. Telecom District Manager,
Palghat.
3. The Chief General Manager,
Telecom, Kerala Circle,
Trivandrum.

- Respondents

By Advocate Mr Mahew G Vadakkal, ACGSC

OA-767/93

1. K Muraleedharan,
Temporary Status Mazdoor, O/of the
SDOT, Palghat.
2. V Prabhakaran, -do-
3. K Rajan -do-
4. K Sivadasan, Temporary Status
Mazdoor, O/o the SDOT, Alathur.
5. C Madhavan, Temporary Status
Mazdoor, O/o the SDOT, Palghat.

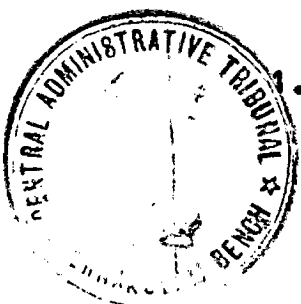
- Applicants

By Advocate Mr Shafik MA

Vs.

Sub Divisional Officer,
Telecom, Palghat.

- Respondents



2. Sub Divisional Officer,
Telecom, Alathur.
3. Telecom District Manager,
Palghat.
4. Chief General Manager,
Telecom, Trivandrum. - Respondents

By Advocate Mr SKrishnamoorthy, ACGSC

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N DHARMADAN(J)

These two cases are heard together and disposed of this common judgement on consent of parties in view of the fact that question of law arising for consideration ⁱⁿ /similar set of facts, is the same.

2. The facts in DA-767/93 are dealt with for disposing of these cases.

3. All the applicants are approved casual mazdoors working in the Palghat Division of the Telecom under the third respondent. According to them, they commenced casual service from 1982 onwards, and they have been granted the status of approved mazdoors with effect from 26.11.1986 and temporary status from 1.10.1989. According to the applicants, all of them are working in the same office and they commenced their service on the same day. They are eligible to get regularisation in terms of the office memorandum in Annexure-A2 dated 30.1.1993. The condition for eligibility under the aforesaid OM is as follows:

"Eligibility: Temporary Status Mazdoors who have put in a service of 240 days per year in any three years prior to 31.3.93 and who have been on Rolls of the



Department during the preceding one year. It may be noted that no weightage is given for any year in which the Casual Mazdoor with Temporary Status did not work even for a single day, i.e. if the Casual Mazdoor with temporary status has not worked even for a single day in a particular year or years that period will be treated as on-qualifying service while computing the qualifying length of service for the purpose of regularisation."

Annexure-A3 is the application form submitted by the first applicant for regularisation giving the details of his work as follows:

"Details of service rendered financial year-wise upto 31.1.'93:

1.	1983	1984	- 12 days
2.	1984	1985	- 34 days
3.	1985	1986	- 4 days
4.	1986	1987	- 62 days
5.	1987	1988	- 325 days
6.	1988	1989	- 322 days
7.	1989	1990	- 340 days
8.	1990	1991	- 364 days
9.	1991	1992	- 361 days
10.	1992	1993	- 306 days"

According to the service details of other applicants are also same.

4. Respondents have verified the details and considered the question of regularisation and according to them, the third applicant has satisfied the requirements under Annexure-A2 proceedings and he has been regularised. Applicants 1,2, 4 & 5 have not completed the required ten years of continuous service as on 31.3.1993. Hence they are not eligible for the regularisation.

5. Identical question came up before this Tribunal in V Gangadharan V. Sub Divisional Officer, Palakkad & 2 others in OA-804/94. We have examined the scope and ambit of the condition of eligibility in Annexure-A2 in that case and



held that the completion of ten years of service as on 31.3.1993 is not a condition precedent for making a casual employee eligible for regularisation, since the same has not been mentioned in the eligibility clause. Of course, the subject referred to in the aforesaid proceeding takes in this aspect of completion of ten years as on 31.3.1993. In the above case we observed as follows:

"4. The eligibility clause extracted above does not stipulate ten years of service as a pre-condition for regularisation. However, in the instant case, according to us, taking into account the admitted fact as disclosed in Annexure A1, the applicant had satisfied the requirement of ten years of service. As indicated above, the applicant had actually worked both in 1985 and 1986 for few days. The certificate issued by the Sub Divisional Officer, Telegraphs, Palakkad, is produced before us for perusal. It shows that the applicant had worked for 144 days from 19.2.1983 to 16.7.1985. Annexure A1 shows that during the period 1986-87, he worked for 42 days. Thus, it can be seen that the applicant worked continuously from 1983. There is no break. But the actual days of work may be limited. However, there is no substance in the statement that he had not worked during the period 1985-86. Thus, from the admitted facts it can be safely concluded that the applicant had worked during the period in question even though it does not find a place in Annexure A1. Under these circumstances, we see no truth in the statement of the respondents that the applicant has not produced any record to satisfy the requirements in Annexure A2. As indicated above, from the available records it is proved that the applicant had worked for the total period and he is fully eligible to be considered for regularisation in terms of Annexure A2.

6. In this view of the matter, we are satisfied that the original application can be allowed declaring that the applicant is entitled to regularisation in terms of Annexure A2."

6. We are of the view that fixation of an arbitrary period of ten years without having any nexus to the object sought to be achieved may make the provision unsupportable if challenged by the employees. Thus it cannot be sustained because of possibility of attacking the same as arbitrary and violative of the provisions of



Article 14 of the Constitution of India particularly when the Supreme Court has in number of cases have decided that casual employees who have regular service for more than one year with 240 days in their credit are entitled to be considered for regularisation in accordance with law.

7. However, in this case, the clause dealing with the eligibility extracted above stipulates that temporary status mazdoors who have put in service of 240 days per year in any of three years prior to 31.3.1993 are eligible under the rules. That condition has been satisfied by the applicants in this case. In fact applicants have submitted that they were working in the same office under the same employer from 1982 onwards and the first applicant has produced the details in Annexure-A3. Going by the statements in Annexure.A3 and the averments in the DA, the applicants have completed ten years of service. If the respondents doubt the statements, it is for them to verify the same with reference to the records kept in the office. Respondents have no case that they have verified with the office record and that the applicants have given false statement and that they have not satisfied the requirements as contained in Annexure-A2. Their case is that they are unable to verify for they are keeping registers/records only for three years. This cannot be accepted as fully correct for in some case the department has produced records beyond three years.



8. However, in the light of the view that we have already taken in OA-804/93, the applicants have satisfied the requirements for regularisation under Annexure-A2. Accordingly, we declare that the applicants are eligible for regularisation and dispose of the applications, directing the respondents to consider the applicants for regularisation if they ^{are} otherwise suitable for granting regularisation.

9. Both the applications are allowed as above. The direction shall be complied with within a period of four months from the date of receipt of a copy of this order. No costs.

Dated, the 17th day of March, 1994.

Sd/-
(S KASIPANDIAN)
MEMBER(A)

Sd/- 17.3.94
(N DHARMADAN)
MEMBER(J)

tra

CERTIFIED TRUE COPY

Date 6.4.94

Mmm
Deputy Registrar

