

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. 318/93

Friday, this the 21st day of January, 1994

CORAM

Shri N.Dharmadan, Judicial Member

Shri S.Kasipandian, Administrative Member

Applicant

Shri T.P.Surendran,
Thekkemundakkal House,
Perumbalam P.O.,
Cherthala Taluk,
District Alappuzha.

By Advocate Shri K.Reghu

Versus

Respondents

1. The Junior Telecom Officer (Phones),
Telephone Exchange,
Mavelloor,
News Printer Nagar P.O.,
Vaikom.
2. The Sub Divisional Officer (Telephones)
Palai.
3. The Telecom District Manager,
Telecom Office,
Kottayam.
4. The Chief General Manager (Telecom)
C.G.M.T.Office,
Thiruvananthapuram.
5. Union of India rep. by Secretary,
Ministry of Communications, New Delhi.

By Advocate Shri Mathew G.Vadakkal

O R D E R

N.Dharmadan, JM

Applicant is a SC casual employee having prior service in the Telecom Department. He is aggrieved by the denial of the regularisation and Ann.A13 order passed by the Telecom District Manager, Kottayam.

2. According to the applicant, he joined service as temporary casual mazdoor under the 2nd respondent on 9.2.81. He produced Ann.1 certificate to show that he had already been granted temporary status w.e.f. 1.10.89 and his name

was included in the list of such casual employees. He is Sl.No. 65 in the list. When Ann.A3 circular of the Divisional Engineer, Administration was issued on 23.1.92 dealing with regularisation of temporary status mazdoor the applicant also applied for regularisation. The terms and conditions for regularisation as seen from Ann.3 are extracted below:

"1. Temporary status mazdoors who have put in a service of 240 days per year (206 days of more per year in respect of those working in offices where five days week is observed) in any three previous financial years and have been on rolls of the department during the preceding one year i.e. 31.12.92.

2. Regularisation will be done from the common seniority list of the territorial jurisdiction of Kottayam SSA.

All eligible "temporary Status Mazdoors" in the territorial jurisdiction of Kottayam SSA may submit Bio-data particulars in the prescribed proforma to the concerned Sub Division on or before 1.2.92."

Since the applicant satisfied all the above conditions for regularisation he filed earlier OA 944/92 which was disposed of by Ann.11 judgement dated 9.7.92 directing the respondents to consider and dispose of his representation taking a sympathetic view and condoning the breaks in service in the light of the physical condition of the applicant. For taking such a sympathetic view considering the physical condition of the applicant as observed in the judgement, the applicant filed Ann.12 representation after the judgment. It is after considering this representation that the impugned order was passed on 6.8.92 in which the Telecom District Manager, Kottayam informed the applicant that he has not worked " a single day in 1981-82, 1982-83, 1983-84, 84-85, 85-86."Hence you have not completed 10 years of service either on 31.12.91 or 31.3.92."

3. According to the applicant this is a new case developed by the Telecom District Manager, Kottayam after the judgement, only to deny the appointment of the applicant. Before the judgement the case of the Department, as seen from Ann.7, is that there was a break of 180 days. The applicant was

directed to produce medical certificate to condone that break. In fact the indication was that if the applicant produces medical certificate the break in service would be condoned for regularising him in service. Accordingly applicant filed certificate. But no regularisation order was issued to him.

4. Admittedly, the applicant is a temporary status casual mazdoor, who joined the service as casual employee in the year 1981. His name is at Sl.No.65 in Ann.2 order passed by the Sub Divisional Officer, Telegraph, Palai. When the applicant earlier submitted Ann.19 application form pursuant to Ann.3 for regularisation, Ann.7 communication was issued to the applicant by the Sub Divisional Officer, Telegraph informing him as indicated above that there is only a break in service for a period of 180 days (80-81 - 50 days and 86-87 - 171 days). On receipt of the same, the applicant filed representation for condoning the break and regularisation. That has not been considered. Hence he was forced to approach the Tribunal. He got a judgement Ann.11, in his favour with a direction for disposal of the representation taking a sympathetic view.

5. In the light of the judgment, the respondents ought to have taken a sympathetic view. Instead, they have evolved a new case in the impugned order stating that from 81-82 and 85-86, the applicant has not worked for a single day. If as a matter of fact the applicant did not work from 1981 to 1986 and abandoned the job, he should have been informed so while issuing Ann.A7. But Ann.A7, as indicated above, stated that if the applicant satisfies the requirements for condoning the break he would be granted regularisation. Now the respondents have changed their stand without any justification.

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6. The case of the applicant is that he has satisfied all the conditions for regularisation as contained in Ann.A3. Applicant has produced Ann. A4, A5 & A6 to establish that the applicant has satisfied all the conditions for granting regularisation. These certificates having been accepted and the respondents have no case that the statement in the same are false. But in the reply the respondents stated that he has not fulfilled all the conditions for regularisation and hence he is not eligible for consideration. But the respondents have no case that the applicant has failed to satisfy the conditions ~~as~~ in Ann.A3. The contentions referred to in the reply are not based on the terms and conditions for regularisation as contained in Ann.A3. From a perusal of Ann.A3 which was issued on 23.1.92 with the other documents produced by the applicant in this case, we are satisfied that the applicant has satisfied all the conditions for getting regularisation. He was granted temporary status w.e.f. 1.10.89. He belongs to SC community eligible for regularisation.

7. Accordingly, having regard to the facts and circumstances, we allow the application and declare that the applicant is entitled to be regularised in service. The respondents shall regularise him in service considering Ann.A4 to A7 since he has satisfied the conditions ~~in~~ in Ann.A3. The direction shall be complied with within 4 months from the date of receipt of a copy of this order.

8. In the result the application is allowed. No order as to costs.

S. Kasipandian
(S. Kasipandian)
Member (A)

N. Dharmadan
(N. Dharmadan)
Member (J)
21.1.94