

CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O.A.No.348/98

CORAM: Monday this the 28th day of June, 1999.

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

M.K.Udayan,
Mundenth House,
Gandhi Nagar,
Kochi-20.

..Applicant

(By Advocate Sri Sreeraj)

vs.

1. Sub Divisional Engineer, Telecom, Transmission Project, Thottekathu Road, Kochi-16.
2. The Director, Telecom Transmission Project, Kerala Circle, Panambilly Nagar, Kochi.
3. Union of India, represented by Secretary to Government of India, Department of Telecom, New Delhi.

..Respondents

(By Advocate Mr.James Kurien, ACGSC)

The application having been heard on 9.6.99, the Tribunal on 28.6.99, delivered the following:

O R D E R

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN:

The applicant has filed this application for a declaration that he is eligible to be reengaged as casual workman and included in the list of approved casual mazdoors and for a direction to the respondents to re-engage him and include him in the list of approved casual mazdoors and also for a declaration that he is eligible to be granted temporary status and considered for regularisation and for direction to the respondents to consider him for grant of temporary status and regularisation.

2. It is alleged in the Application that the applicant was engaged as a casual mazdoor initially in the Microwave Project, Idukki(Office at Ernakulam) with effect from 5.3.90, that he was

engaged for one year with a remuneration of Rs.40/- per day paid by the Junior Telecom Officer, Mr.Chandrasan, and Shri Joseph who was Assistant Engineer at that time, that from 3.1.92 onwards the applicant worked at Adimaly in the Transmission Project under the Junior Telecom Officers, Mr.Krishnan Nair and Mr.Varghese for 8 months, that he had been working on imprest bills, that from December 1992 onwards he continuously worked in the Transmission and Installation Project, Panambilly Nagar under Assistant Engineer Mr.M.A.Paul till 31.12.97, that payment to him was made through cheques issued in the name of one Mr.Vinod who was another casual mazdoor and that thereafter he was denied work, though persons junior to him, namely Vinod, Santhosh and Sajan are retained for work.

It is further alleged that the applicant preferred representations dated 7.2.98 to the respondents 1 and 2(Annexure-A1 and A1(a)) respectively seeking re-engagement, without success.

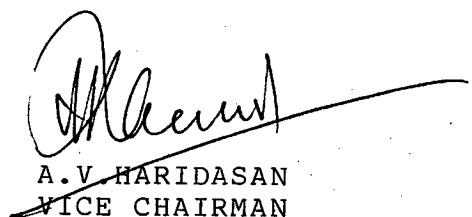
3. The respondents resist the claim of the applicant. They contend that there has been a total ban of recruitment of casual mazdoors with effect from 30.3.1985, that the claim of the applicant that he has been working since 3.1.1992 continuously in the Transmission and Installation Project, Panampilly Nagar under Assistant Engineer Shri M.A.Paul is totally untrue as the said office started functioning only with effect from October,1993 , that Sri Vinodkumar was engaged as a contractor for the supply of labourers to the Assistant Engineer's office from 30.3.1994 for certain items of specific work, copies of bills for which are Annexure-R1 to R4, that as there has been no engagement of the applicant as a casual labourer, he is not entitled to any benefit. The respondents

further contend that the benefit of the scheme for grant of temporary status and regularisation is not applicable to the applicant, as the scheme was evolved for grant of temporary status and for regularisation of casual mazdoors employed prior to 22.6.1988 and currently in service on the date on which the scheme was brought into effect namely 7.11.1989 and the applicant's claim has absolutely no legal basis.

4. I have gone through the pleadings and the documents placed on record and have heard at length the arguments advanced by Sri Sreeraj, the learned counsel of the applicant and Shri James Kurien, ACGSC appearing for the respondents. Though the applicant has claimed in this application that he has been working as a casual labourer under the respondents from 5.3.90, which is denied by the respondents, the applicant has not produced any material to establish his claim, other than copies of two representations Annexures-Al and Al(a) wherein he had made an averment that he had been working as a casual labourer in the Microwave Project, Idukki since 5.3.90. However the applicant himself has in sub-para 2 of paragraph 4 alleged that payments were made to him through cheques issued to one Mr. Vinod, who was yet another casual mazdoor. The respondents in their reply statement has specifically denied the allegation that the applicant has been working continuously from December 1992 as casual mazdoor in the Transmission and Installation project, Panampilly Nagar and have contended that the said office started functioning only with effect from October, 1993. The applicant has not filed any rejoinder refuting this contention taken in the reply statement. It shows that the applicant has not placed the real facts before the Tribunal in this application. The respondents have specifically contended that as there has been a ban in engagement of casual mazdoor

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from 30.3.1985 onwards, the Department did not engage any casual labourer for work of perennial nature and had got specific items of work done through the contractors and that the applicant had been one of the labourers produced by a contractor Mr. Vinod from 1994 onwards intermittently till the contract was terminated with effect from 31.12.97. The Casual Labourers Grant of Temporary Status and Regularisation Scheme brought into effect with effect from 7.11.89 being only for grant of temporary status and regularisation of casual labourers who were engaged prior to 22.6.1988 and currently employed and had rendered one year of service as on 7.11.89, the applicant has no right to claim the benefit of the Scheme. The O.M. No. 269-10/89-STN dated 7th November, 1989 of the Government of India, Department of Telecommunications, very clearly states that the Scheme was intended to grant temporary status to all casual labourers currently employed and have rendered a continuous service of at least one year and for their regularisation on Group-D posts. As the applicant was not even on his own averment currently employed on 7.11.89, there is no basis for his claim for the benefit under the Scheme. As the applicant was not engaged as a casual labourer by the respondents as claimed by him, he is not entitled to the declaration that he is eligible to be included in the list of approved casual labourers or that he is entitled for the grant of temporary status and regularisation. The application therefore is devoid of any merit and his dismissed, leaving the parties to bear their own costs.



A.V. HARIDASAN
VICE CHAIRMAN

List of Annexures referred in the Order:

1. Annexure-Al True copy of the representation dated 7.2.98 submitted by applicant to the 1st respondent.
2. Annexure Al(a) True copy of the representation dated 7.2.98 submitted by applicant to the 2nd respondent.
3. Annexure R1 Copy of bills for the month of May,1994.
4. Annexure R2 Copy of bills for the month of April,1995.
5. Annexure R3 Copy of bills for the month of March,1996.
6. Annexure R4 Copy of bills for the month of August,1997.