

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O. A. No. 368/91  
~~KAXXNXX~~

199

DATE OF DECISION 17.6.92

MK Jagadeesh Applicant (s)

M/s TA Rajan & Alexander Advocate for the Applicant (s)  
Joseph

Versus

Union of India rep. by Secretary,  
Ministry of Communications, Respondent (s)  
New Delhi and others.

Mr KA Cherian, ACGSC Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. PS Habeeb Mohamed, Administrative Member  
and

The Hon'ble Mr. N Dharmadan, Judicial 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? *no*
4. To be circulated to all Benches of the Tribunal? *no*

JUDGEMENT

Sh PS Habeeb Mohamed.A.M

In this application, the applicant alleges, *order by which* <sup>4</sup> that his services as casual mazdoor have been terminated by the respondents. *therefore,* <sup>4</sup> He has filed this application for getting reengagement with the following reliefs:

"(i) to set aside Annexure-V.

(ii) to declare that the termination and denial of employment to the applicant is illegal and direct the respondents to reinstate the applicant into service with all consequential benefits, or in alternative direct the respondents to re-engage the applicant as casual mazdoor on the basis of his past service.

(iii) direct the respondents to regularise the service of the applicant in accordance with his turn on the basis of his initial engagement."

2 According to the applicant, he commenced service as casual mazdoor in September, 1981 under Respondent-4, *and* <sup>4</sup> Identity Card was

issued <sup>to him</sup> which is at Annexure-I. Thereafter, he worked at Iduki, Kelpatta etc; and the service particulars are given at Annexure-II by Respondent-4. Later on, the applicant's name was also included in the muster roll, but in 1983 his services have been terminated. He submitted that he worked continuously for 153 days under Respondent-4. However, it is noticed that the termination order was issued without any notice or passing any specific order so as to enable him to challenge the same. The certificate issued by the Respondent-4 at Annexure-VI reads as follows:-

" This is to certify that Shri MK Jagadeesh, S/o E Muthupilla, Badarinilam Parambu, P.O. Kallai, Kannancheri, Calicut is known to me for the last three years and he has associated with the various Microwave Installation works under Calicut Sub Division. His work was terminated and he will be given change as and when vacancies arises.

" His Character and conduct are good."

3 Respondents have filed reply statement as also additional reply statement wherein they have admitted the applicant's prior engagement under Respondent-4. However, it is submitted by the respondents that the certificate was issued only to enable the applicant to get further engagement from other employers.

4 At the time of final hearing, the learned counsel for the respondents submitted that there is a long delay in filing this application and <sup>continued</sup> ~~reiterated~~ that the applicant has ~~xxx~~ abandoned the job. Hence, the applicant is not entitled to get any relief and the application is liable to be dismissed. Shri TA Rajan, learned counsel for the applicant on the other hand


submitted that the certificate at Annexure VI indicates that the Department is prepared to give the applicant further engagement whenever vacancy arises. According to the learned counsel vacancies exist under the respondents against which the applicant could be appointed. He also submitted that the applicant is entitled for regularisation from the date of his original engagement.

5 We have perused the documents <sup>and the Certificate is</sup> carefully in which it is indicated that even though the applicants services have been terminated, the Department is willing to engage the applicant whenever vacancy arises.

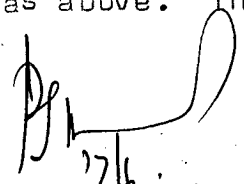
Accordingly, the applicant made a representation before the respondents for getting further engagement, but they have not entertained the request <sup>and</sup> ~~was~~ not granted the benefit of appointment to the applicant.

6 Having regard to the facts and circumstances of the case, we are of the view that the applicant is entitled to be appointed as a fresh casual employee <sup>in the light of the admission of this Bench in the Certificate</sup> under Respondent-2 and accordingly we direct the Respondent-2 to engage the applicant as a casual employee against any of the existing vacancies. He is also directed to consider the claim of the applicant for regularisation, in accordance with law, taking into consideration his prior service, if he is found eligible.

7 The application is allowed as above. There is no order as to costs.

  
(N Dharmadan)  
Judicial Member

17.6.92

  
(PS Habeeb Mohamed)  
Administrative Member