

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH**

**OA NO. 370/2004**

**TUESDAY THIS THE 18TH DAY OF JULY, 2006**

**CORAM**

**HON'BLE MRS. SATHI NAIR, VICE CHAIRMAN  
HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER**

**M.Muraleedharan Nair  
Driver (MT) Staff Subsidiary Intelligence Bureau  
Ministry of Home Affairs, Government of India  
Trivandrum-14  
residing at Melekumumpurathu veedu  
Ayanicadu, Karakulam P.O.  
Thiruvananthapuram.**

**Applicant**

**By Advocate Mr. K. Jaju Babu**

**Vs**

- 1     The Central Intelligence Officer  
      SIB Office (MHA)  
      Government of India, Vazhuthacaud  
      Trivandrum-14**
- 2     The Joint Director  
      SIB Office (MHA)  
      Government of India, Vazhuthacaud  
      Trivandrum-14**
- 3     The Director  
      SIB Office (MHA)  
      Government of India,  
      New Delhi.**
- 4     Union of India represented by  
      the Secretary to Government of India  
      Ministry of Home affairs  
      Central Secretariat,  
      New Delhi.**

**Respondents**

**By Advocate Mr. Sunil Jose, ACGSC**

**ORDER****HON'BLE MRS. SATHI NAIR, VICE CHAIRMAN**

This application seeks to challenge the order passed by the 3<sup>rd</sup> respondent rejecting the applicant's request for regularisation of his service. The applicant has sought the following reliefs:

- (i) set aside order dated 6.1.2004 issued by the 3<sup>rd</sup> respondent:
- (ii) declare that the applicant in view of his continuous uninterrupted service on daily wages under the 1<sup>st</sup> and 2<sup>nd</sup> respondents from 1992 onwards is entitled to be regularised in the post of Driver(JIO-MT) in the office of the 1<sup>st</sup> and 2<sup>nd</sup> respondents:
- (iii) direct the respondents to regularise the service of the applicant by posting him in any one of the existing vacancies of Driver(JIO-II(Mt) in the office of the 1<sup>st</sup> and 2<sup>nd</sup> respondents:
- (iv) restrain the respondents from filling up the vacancies in the post of Driver (JIO-II(MT) in the office of the 1<sup>st</sup> and 2<sup>nd</sup> respondents before regularising the service of the applicant in one such vacancy:
- (v) grant such other reliefs as this Hon. Tribunal deem fit.

2 The submissions of the applicant are that he had been engaged on daily wages by the respondents from 1992 onwards as driver in the office of the 1<sup>st</sup> and 2<sup>nd</sup> respondents after an interview and driving test as in the case of regular recruitments and has been discharging his duties to the utmost satisfaction of his superiors, that he has all the qualifications required for the driver post for which the applications have been invited by the Department, that he had also applied for the post and had been called for interview and test and after having worked for more than 6 years he ought to have been regularised in service by the respondents.

3 The respondents have denied the averments of the applicant. It is submitted that the applicant was engaged purely on 'no work no

wage basis ' and paid wages ranging from Rs. 40- Rs. 90/- per day depending on duration of work. The request of the applicant to appoint him in IB was not considered as there is no provision in the Recruitment Rules of Drivers, JIO-II/MT to regularise the services of such employees who are neither regular, temporary nor adhoc or casual. As per the relevant Recruitment Rules for the post of JIO-MT, transfer on deputation could be made from Gr-D employees of IB having valid driving license to drive motorcars, failing which from regular Gr D employees in other Ministries of the Central Govt who fulfill the necessary qualifications prescribed for Direct recruitment. The applicant had applied for the post advertised for direct recruitment and the final selection rests on merit. He was not found qualified by the selection committee. No hostile discrimination has been shown to the applicant and his claims are devoid of any merit. The Learned counsel for the applicant argued that the applicant had been in the service of the respondents since 1992 and had also carried out several sensitive assignments given to him by the senior officers and now that he is over aged for applying for other Govt jobs , the respondents have unjustly denied his claim for a regular appointment. On the other hand the respondent's counsel contended that the applicant was not in service since 2001 and his engagements during the previous years were need based and the same does not confer any specific right on the applicant.

4 We have heard the counsels and carefully gone through the pleadings. First of all, the applicant's claim is for regularisation in view of his continuous uninterrupted service. The only record submitted by the applicant in proof of his service is the control room duty charts at Annexure A1. These are only for the months of July and October 2001. The applicant had approached the Hon High court in OP No 2956/2001 praying for a posting in any one of the existing vacancies of driver and an order was passed not to terminate the services of the petitioner for a period of two months and presumably his engagement during 2001 was in terms of that direction. The applicant was being engaged whenever there was a shortage of drivers as admitted by the respondents on payment of daily wages and his appointment was neither on part-time, adhoc or casual on a continuous basis as averred by the applicant. He has himself admitted in his averments in para 5 that he is out of service from 2001 onwards. Hence no rights accrue to him for regular appointment and we concur with this stand of the respondents. The judgement of the Hon Supreme court in Umadevi Vs Secretary State of Karnataka reported in (2006 SCC 480) has confirmed this legal position in no uncertain terms. We quote:

'A daily wage /temporary appointment would come to an end when it is discontinued. A temporary employee cannot claim to be made permanent on the expiry of his term of appointment. Merely a temporary employee or casual worker is continued beyond the term of his appointment he would not be entitled to be absorbed in regular service if original appointment was not made following a due process of

selection as envisaged by the relevant rules.....No mandamus directing them to absorb them in service or to allow them to continue can be issued."As the engagement of the applicant was not as per any recruitment Rules and was purely a need based arrangement, this claim has to be outright rejected.

5 The second contention is regarding his non selection for the post of JIO-MT for which he had applied. The appointment <sup>to</sup> of the Posts of JIOII-MT is made through open competition and the selection is based on merit. Since he is not a <sup>out</sup> Grade-D employee he has to compete in the 80% Direct Recruitment quota. The respondents have submitted that besides the proficiency in driving other aspects relating to administration are also to be looked into as the post is a feeder cadre to Grade-A gazetted posts carrying higher responsibilities and ~~that~~ the selection committee did not find the applicant qualified to hold the post. The service on daily wages does not entitle him to any preference in the selection process. He has not qualified in the selection. As such we do not see any merit in the claim of the applicant. The OA is dismissed.

Dated the 18<sup>th</sup> July, 2006.

  
GEORGE PARACKEN  
JUDICIAL MEMBER

  
SATHI NAIR  
VICE CHAIRMAN

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