

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No. 386/99

Friday this the Tenth day of March, Two thousand.

CORAM

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

P. Atmanandan Pillai
S/o Parameswaran Pillai aged 43
Temporary Status Mazdoor,
Office of the Director, Telecom Transmission
Project, Ernakulam, residing at
Varavukala Thekkethil, Mavadi PO,
Kottarakkara. .. Applicant

(By Advocate Mr. M.R. Rajendran Nair/MR Hariraj)

V.

1. The Divisional Engineer, Telecom Transmission Project, Ernakulam.
2. The General Manager, Telecom Transmission Project, ERnakulam.
3. The Chief General Manager, Telecom Kerala Circle, Trivandrum.
4. The Union of India, represented by its Secretary to Government of India, Department of Telecom, New Delhi. ... Respondents

(By Advocate Mrs. S. Chitra, ACGSC)

The application having been heard on 10.3.2000, the Tribunal on the same day delivered the following:

O R D E R

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

The applicant was initially engaged as a casual mazdoor under the respondents in the year 1986 and he had worked for about 420 days when his services were terminated in the year 1987. He made a representation claiming reengagement which was rejected by order dated 14.10.91. The applicant challenged the order dated 14.10.91 in

W

O.A.1641/91 in which he also prayed for a declaration that the termination of his services in 1991 was null and void and that the respondents be directed to give him work and wages in preference to his juniors and to regularise him in his turn. The above Original Application was disposed of allowing the same to the extent of directing the respondents to reengage the applicant, if work was available and persons with lesser length of casual service than him were being retained or reengaged in casual employment. However, the prayer of the applicant to declare the termination of his services in the year 1987 null and void was not granted because the applicant did not challenge the termination of his service in time. Pursuant to the above judgment the applicant was reengaged on 23.12.91. He was thereafter conferred temporary status with effect from 23.12.1992 by order dated 7.3.94 (A1). The applicant made Annexures A2 and A3 representations claiming regularisation on a Group D post. In reply to which the applicant received a communication dated 12.6.96 (Annexure.A4) by which the applicant was told that he had completed eight years of service only, the period between 1.6.87 to 23.12.91 not being counted and that his turn for regularisation would come only during 1997-98. The applicant challenged the A4 order in OA 1057/96 claiming a declaration that the applicant was entitled to be considered for regularisation in the Telecom Department with effect from 1.4.93 or atleast with effect from 1.4.96 and for a direction to the respondents to regularise him with effect from due date and for another declaration that prescription of a period of ten

M/

years as essential condition for regularisation of casual labourers was arbitrary, unreasonable and discriminatory. This Original Application was dismissed. Since the applicant was told by A4 order that he would be due for regularisation during 1997-98 the applicant made a representation on 28.4.98 (A6) and followed it up by another representation dated 1.2.99 (A7). Finding no response to these, the applicant has filed this application for a declaration that he is entitled to be regularised in service as a Group D with effect from 1.4.98 and to direct the respondents to regularise the applicant in service as Group D with effect from 1.4.98.

2. The respondents resist the claim of the applicant. In their reply statement they contend that as per the instructions contained in the letter of the Director General, Telecom dated 21.10.92 break in service beyond one year cannot be considered for condonation and that as the applicant was reengaged only on 23.12.91 after a break of about four and a half years, the applicant would be entitled for regularisation on a Group D post only on completion of a period of ten years from 23.12.91 in accordance with the instructions contained in the Directorate's letter dated 21.10.92, 3.1.92 and the latest instruction issued from the Directorate on 13.5.99 (Annexure.R3). As the break period of the applicant exceed one year and extends to four and a half years, the same is not condonable and therefore, the applicant would become eligible for regularisation only in the year 2001, according to the respondents. It has been

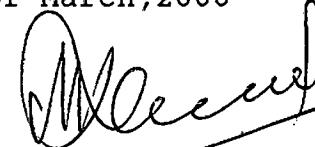
stated in the reply statement that by the letter A4 the applicant was informed that he would be eligible for regularisation in the year 1997-98, on the basis of a clarificatory letter issued by the local authorities which has not been accepted by the competent authority.

3. We have perused the pleadings and the materials on record and have heard Shri Hariraj, learned counsel appearing for the applicant and Smt.S.Chitra, ACGSC. The prayer of the applicant for a declaration that he is entitled to be regularised on a Group D post with effect from 1.4.98 has no basis at all. Even if for argument sake, the case of the applicant that the 420 days of service rendered by him in 1986-87 is to be taken into account he would not have completed ten years of service as on 1.4.98. On this score alone the application is liable to be dismissed. Further as the applicant did not challenge the termination of the services in the year 1987 but approached the Tribunal only in the year 1991, the Tribunal vide its order in O.A.1641/91 declined to set aside the termination of service but only directed reengagement of the applicant if work was available in preference to persons with lesser length of service than the applicant. No direction was given that the break period to be condoned. The applicant having been reengaged only on 23.12.91 he is entitled to be considered for regularisation only in accordance with the scheme evolved and the instructions issued by the Department of Telecom. According to Annexure.R.1 letter dated 21.10.92 the break in service exceeding one year is not be considered

for condonation and according to the Directorate's letter dated 13.5.99 if the break in engagement is not suitably condoned the period for regularisation would be counted only with effect from the date of reengagement. Therefore, the respondents cannot be faulted for contending that the applicant would become eligible for regularisation as per the rules after rendering ten years of service.

4. In the light of what is stated above, finding no merit in this application the same is dismissed leaving the parties to bear their own costs.

Dated this the 10th day of March, 2000



A.V. HARIDASAN
VICE CHAIRMAN

S.

List of annexures referred to:

Annexure A.1: True copy of the Order (Memo) No.E.89/KTA/93-94/70 dated 7.3.94 issued by the Sub Divisional Officer, Telegraphs, Kottarakkara.

Annexure A2: True copy of the representation dated 10.5.96 submitted by the applicant to the third respondent.

Annexure A3: True copy of the application dated 7.2.96 submitted by the applicant to the respondents together with experience certificates issued by the Assistant Engineer (HQ) Telecom, Transmission Project, Kochi.11.

Annexure A4: True copy of the Order No. STE/CM/96-97/16 dated 12.-6.96 issued by the Assistant General Manager (Adm) Office of the G.M. Telecom, Kollam.

Annexure A6: True copy of the representation dated 28.4.98 submitted by the applicant to the 3rd respondent.

Annexure A7: True copy of the representation dated 1.2.99 submitted by the applicant to the General Manager, Telecommunication, Kollam.

Annexure R.1½ True copy of DOT No.269-3/92 STN dated 21.10.1992 addressed to all Heads of Telecom Circles.

Annexure R3: True copy of DOT No.269-3/92 STN dated 13.5.99 to all telecom circles and others.