

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 391 of 2000

Friday, this the 8th day of December, 2000

CORAM

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER

1. B. Krishna Pillai,
S/o. Bhaskara Pillai,
Naduvilakkara, Thevalakkara,
Kollam District.
2. S. Chandrasekhara Pillai,
S/o. Sukumara Pillai,
Bunglavil, Padinjattinkara,
Thevalakkara, Kollam.Applicants

[By Advocate M/s Santhosh & Rajan (rep.)]

Versus

1. Union of India, represented by its
Secretary to Government,
Ministry of Communications, New Delhi.
2. The Chief General Manager,
Telecom, Kerala Circle, Thiruvananthapuram.
3. The Telecom District Manager, Kollam.
4. The Chairman & Managing Director,
Bharat Sanchar Nigam Limited,
Sanchar Bhavan, New Delhi.
5. The Chief General Manager,
Bharat Sanchar Nigam Ltd., Kerala,
Trivandrum-33Respondents

[By Advocate Mr. M.R. Suresh, ACGSC]

The application having been heard on 8th of December, 2000,
the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER

Applicants seek to quash A5 to the extent it excludes
the name of the applicants in the list of casual mazdoors
eligible for empanelment, to declare that non-inclusion of the
applicants in the list of employees eligible for empanelment as
illegal, and to direct the respondents to include the

applicants in the list of casual mazdoors eligible for empanelment and also to direct to give work and wages in preference to freshers and juniors.

2. Applicants say that they are approved casual labourers in the Telecom Department. The 1st applicant was engaged from 21-9-1973 upto 13-5-1979 with intermittent breaks. The 2nd applicant was initially engaged in the year 1976 and worked upto 28-9-1976. The Department published notifications in certain dailies inviting applications from erstwhile casual labourers for empanelment, as per A3. Applicants submitted their applications in the prescribed proforma with relevant documents for empanelment. Their names were not included in the list of eligible employees for the reason that experience certificate from Gazetted officer was not available.

3. Respondents contend that the applicants were not approved casual mazdoors. They have not produced any document in support of their stand that they were approved casual mazdoors. They were engaged only for a short period. As per A3 notification, application should accompany attested copy of the certificate of engagement issued by a competent Gazetted officer of the Department. Their applications were rejected as they could not produce the required certificate. Applicants were not heard of for more than 18-21 years. Rule 182 of Post and Telegraph Manual Volume III stipulates that when an employee leaves the Department, a certificate in the specified form may be given to him by the officer to whom he was subordinate, i.e. any Gazetted officer in independent charge of the Circle, Division or Office as the case may be.

4. Applicants say that they are approved casual mazdoors. Apart from the bald averment in the OA, there is absolutely no material in support of their stand that they are approved casual mazdoors.

5. Applications were invited as per A3 for empanelment of casual mazdoors. There is no challenge against A3. Applicants say that they applied in pursuance of A3. As per A5, their applications were rejected on the ground that experience certificate from Gazetted officer of the Department not available. Even now, applicants do not have a case that they do have the experience certificate issued by any Gazetted officer of the Department. A3 specifically says that application for empanelment should be sent along with the documents including attested copies of certificates of engagement issued by competent gazetted officers. Who are the competent gazetted officers? Rule 182 of Post and Telegraph Manual Volume III says clearly that any gazetted officer in independent charge of a Circle, Division or Office as the case may be.

6. A1, according to the 1st applicant, is the labour card relating to him. It contains only one sheet showing certain number of days of engagement. The labour card will in the normal course contain particulars as to the name of the person concerned, his father's name, his date of birth, his personal marks of identification, etc. That particular portion is conspicuously absent in A1. No reason is stated for the absence of the same.

7. According to the 2nd applicant, A2 will show that he was engaged as a casual labourer. At this juncture, it is pertinent to note that the 2nd applicant says that he was

initially engaged in the year 1976 without specifying the date of engagement and worked upto 28-9-1976. In the OA, details of the work done by the 2nd applicant is shown as starting from 21-9-1973 upto 28-9-1976. If that is so, how his initial engagement could be in the year 1976 is a mystery. A2 shows that the 2nd applicant has worked from 6-6-1974 to 26-6-1974. A2 does not tally with the averment in the OA.

8. The learned counsel appearing for the applicants submitted that A2 was issued by the authority concerned in the official capacity. If that is so, it should necessarily contain the office seal. A2 is not having the office seal. A2 is issued by SI Phones, Karunagapally. It is countersigned by the Junior Engineer Phones (Group), Karunagapally. There is absolutely no averment in the OA to the effect that the SI Phones, Karunagapally or the Junior Engineer Phones (Group), Karunagapally is a Gazetted officer in independent charge of a Circle, Division or Office. Respondents have taken up the plea that A2 is not issued by a Gazetted officer. That being so, no relevance can be placed on A2 as long as there is no attack against A3 which emphatically says that certificate of engagement should be one issued by a competent Gazetted officer.

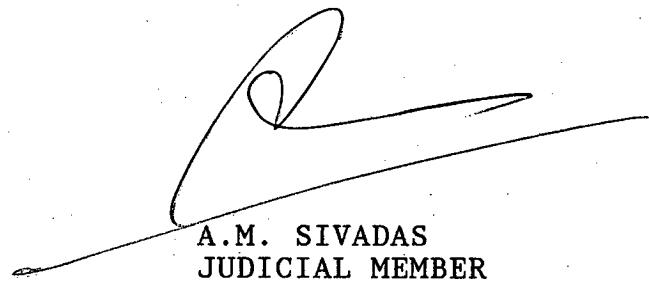
9. So, the position is that neither A1, nor A2 would be of no help to any of the applicants.

10. Respondents have raised a plea that the applicants were not heard of for the past 18-21 years. As per A5 their request for empanelment was not rejected on that ground and in that context, the respondents cannot be heard to say that the applicants were not heard of for 18-21 years after the last date of engagement.

11. In the absence of any material to show that the applicants were approved casual mazdoors as they have contended and there is also no certificate produced by the applicants as contemplated in A3 in support of their engagement, I do not find any ground to interfere with A5, the impugned order.

12. Accordingly, the Original Application is dismissed. No costs.

Friday, this the 8th day of December, 2000



A.M. SIVADAS
JUDICIAL MEMBER

ak.

List of Annexure referred to in this order:

1. A1 True copy of casual labour card of the 1st applicant for the period from 21-2-78 to 31-5-79.
2. A2 True copy of certificate issued to the 2nd applicant in respect of his service rendered from 6-6-74 to 26-6-74.
3. A3 True copy of notification published by the 2nd respondent.
4. A5 True copy of order No. STE/Empanelment/98/99/12 dated 30-3-1999 issued by the 3rd respondent.