

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O. A. No. 393 of 1992.

DATE OF DECISION 27-1-1993

Joseph Alias Kuttan Applicant (s)

M/s MR Rajendran Nair Advocate for the Applicant (s)

The Sub Divisional Officer,
Telegraphs, Mavelikkara
and others. Respondent (s)

Mr George Joseph, ACGSC Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. N. Dharmadan, Judicial Member
and

The Hon'ble Mr. R. Rangarajan, Administrative 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

Shri N. Dharmadan, J.M

The applicant has filed this ~~second~~ application challenging the impugned Annexure-I order dated 23.1.92 rejecting his request for re-engagement while considering his representation dated 13.3.91 at Annexure-III.

2 According to the applicant, he commenced his service as Casual Mazdoor under Respondent-I in the year 1984. He was engaged in various muster rolls during the period 1985-87 and he claims that he worked 500 days. Since he was denied work, he filed representation for re-engagement and subsequently approached this Tribunal by filing DA 1670/91. That DA was disposed of with certain directions. Pursuant to the judgment, the applicant had filed a representation, which was disposed of as per the impugned

order dated 23.1.92 at Annexure-I. Paragraph-2 of the said order reads as follows:

"On a scrutiny of the relevant records, it is seen that you had worked for a period of 294 days in total in Mavelikara Sub Division i.e. 91 days from 1.9.85 to 30.11.85 and 203 days from 1.1.86 to 31.8.86. Regarding your request for issue of approval card, it is intimated that approval card is issued after selection as casual mazdoor for which nomination from Employment Exchange is a must in addition to the prescribed condition of age limit. Further, fresh recruitment of casual mazdoor is strictly banned in the department after 31.3.85 as per DG P&T New Delhi letter No.270/6/84-STN dated 31.3.85. Your engagement for the above days was purely for works of casual nature and engagement for works of occasional nature cannot be taken as a claim for continuous employment in the department."

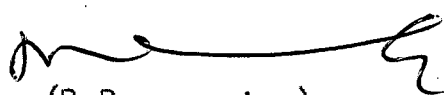
3 Respondents in the reply statement admitted the service of the applicant during the period between 1985-87, but they have stated that the application can only be rejected on the ground that there is long break in service from 1986 onwards and that fresh engagement of casual mazdoors was banned as per DGP&T letter dated 30.3.85 at Annexure R2.

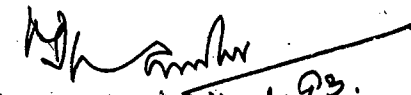
4 At the time when the case was taken up for final hearing, learned counsel for the applicant submitted that since the respondents admitted that the applicant was allowed to work after the ban order dated 30.3.85 and he was working till 1987, the case requires further examination in the light of the O.M. dated 8.4.91 issued by the Department of Personnel stating that casual mazdoors who commenced service prior to 7.6.88 should be exempted from being sponsored by the Employment Exchange. Admittedly, the applicant has been engaged after the above ban order and before the date of the O.M. While

disposing of the representation filed by the applicant dated 13.3.91 and passing the impugned order by the Telecom District Manager, ~~despite xxxxxxxxxxxx~~ the effect of the OM dated 8.4.91, in regard to the applicant's grievance, was not considered.

5 Having heard the counsel for both sides, we are of the view that the claim of the applicant for getting Approval Casual Card on the basis of the prior service and consequential regularisation requires fresh consideration by Respondent-2 in the light of the OM dated 8.4.91 referred to in para-8 of the original application. Since it is found that the Telecom District Manager has issued orders without considering the latest government instructions in this behalf, we are of the view that this application is to be allowed to the extent of directing Respondent-2 to reconsider/ review ~~the~~ Annexure-I in the light of the OM dated 8.4.91 referred to in para-8 of the application, and pass suitable orders in accordance with ^{law} ~~He~~ may also consider the grant of casual work to the applicant ^{engagement} and ~~as~~ as casual labourer alongwith outsiders and his juniors in terms of the interim order passed by this Tribunal on 26.3.92.

6 The application is disposed of ^{as} ~~above~~. There will be no order as to costs.


(R Rangarajan)
Administrative Member


(N Dharmadan) 21.1.93.
Judicial Member