

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 401 of

1990

~~T. A. No.~~

DATE OF DECISION 26-7-1991

K Prasanna Kumar Applicant (s)

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

Versus

Union of India & 2 others Respondent (s)

Mr NN Sugunapalan, SCGSC Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. SP Mukerji, Vice Chairman

&

The Hon'ble Mr. AV Haridasan, 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

AV Haridasan, Judicial Member

In this application filed under Section 19 of the Administrative Tribunals Act, the applicant has prayed that it may be declared that he is a Casual Mazdoor entitled to get work and wages in preference to any Casual Mazdoor who was engaged subsequently and that the denial of employment to him is illegal and to direct the respondents to reengage the applicant as Casual Mazdoor with all consequential benefits and also to direct the respondents to consider and dispose of the representation at Annexure-III in the light of the judgement in OP-4074/81 of the High Court of Kerala and OA-248/87 of this Tribunal.

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2. The applicant was engaged as a Casual Mazdoor on a few days in the year 1984 under the Sub Divisional Officer, Telegraphs, Alleppey, the third respondent. He was not given any casual mazdoor card. Though he reported for work thereafter, he was not given work. Finding that similarly situated persons like him were reengaged and as the Hon'ble High Court of Kerala in OP-4074/81 and this Tribunal in DA-248/87 had granted relief in the case of persons similarly situated like him, he made a representation to the Telecom District Officer, Alleppey, the second respondent on 9.5.1990 claiming reengagement. Since this representation was not disposed of and as he was not reengaged, the applicant has filed this application.

3. The application is resisted by the respondents. In the reply statement it has been contended that though the applicant was engaged for 18 days in the year 1984, as there was no excess work, he was thereafter not engaged and that he is not entitled to lay any claim for reengagement as he was not recruited through Employment Exchange and had not raised any claim for reemployment for the last 5 years and 7 months.

4. We have heard the arguments of the learned counsel on either side and have also carefully gone through the pleadings and the documents produced. The learned counsel for the applicant submitted that in exactly identical circumstances, this Tribunal has directed the Department to reengage the applicants


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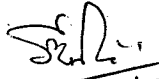
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in those cases with bottom seniority in OA-21/90, OA-38/91 and OA-747/91 and that this application may also be disposed of giving the applicant ~~the~~ similar reliefs. The learned counsel for the respondents submitted that though the applicant has no right to claim immediate reengagement, there is no objection in a direction being given to give him work and to reengage him with bottom seniority, if work is available after employing all the Casual Mazdoors who are in the roll upto-date.

5. In view of the above submissions at the bar and since bench of the Tribunal has this / in OA-21/90, OA-38/91 and OA-747/91 in almost similar circumstances issued similar directions, we are of the view that the application can be disposed of with a direction to the respondents to reengage the applicant with bottom seniority and to give him work and wages as and when work is available.

6. In the result, the application is allowed to the extent of directing the respondents to reengage the applicant as Casual Mazdoor with bottom seniority and to give him work and wages, if work is available, after engaging Casual Mazdoors who are in the roll upto-date. There is no order as to costs.


26/7/91
(AV HARIDASAN)
JUDICIAL MEMBER


26/7/91
(SP MUKERJI)
VICE CHAIRMAN

trs

26-7-1991