

CENTRAL ADMINISTRATIVE TRIBUNAL

MADRAS BENCH

ORIGINAL APPLICATION NO. 412 OF 1986

B. Rajasekharan Nair ... Applicant

vs

1. Union of India, represented
by the Secretary to the
Telecom, Central Secretariat,
New Delhi-110001.

2. The Superintending Engineer,
Telecom, Civil Circle,
Trivandrum.

3. The Executive Engineer, Postal
Civil Division, Trivandrum.

Respondents

For the applicant:

M/s. M.K.Damodaran &
V.K.Mohanan,
Advocates

For the respondents:

Mr.V.Santhalingam,
Addl. Central
Government Standing
Counsel.

CORAM:

Hon'ble Shri C. Venkataraman, Administrative Member &

Hon'ble Shri G. Sreedharan Nair, Judicial Member

O R D E R

(Pronounced by Hon'ble Shri C. Venkataraman,
Administrative Member)

This application has been filed under Section 19 of the Administrative Tribunals Act, 1985, by one B. Rajasekharan Nair, who had been working as a Works Clerk, Grade II in the P. & T. Civil Division. His prayer is that he is entitled to be absorbed in service as a result of his having completed more than 240 days in service and that the 2nd and 3rd respondents should be restrained from terminating his services and from appointing any other person in his place.

The facts of this case may be briefly stated as follows: The applicant was appointed as a Works Clerk, Gr. II in the P & T Civil Division with effect from 29-7-1985 for a period of 89 days. The appointment order indicated that it was purely an ad hoc appointment for a fixed period of 89 days and that it would not confer upon him any claim for appointment on a regular basis. His conditions of service were to be governed by the relevant

rules and orders in force which are applicable for such short duration appointments.

The applicant was subsequently continued in service on purely ad hoc basis for further short spells on 28-10-1985 and 11-2-1986. On 21-4-1986 his temporary ad hoc service was terminated with effect from that afternoon. The applicant is aggrieved on this score and has prayed that the respondents should be restrained from terminating his services and from appointing any other person in his place. The grounds on which his prayer is based are:

(a) He, having completed 240 days of continuous service, is entitled to continue in service, especially when vacancies exist.

(b) Persons junior to him have been retained in service and he has been terminated. He comes under the category of a workman and therefore his termination while retaining his juniors violates the provisions of the Industrial Disputes Act.

The respondents have resisted the prayer contained in the application pointing out that the applicant was appointed as a Works Clerk, Gr.II on purely ad hoc basis and he was fully aware of this, as would be evident from the appointment letter. More over, the applicant is over-aged for regular appointment. For such regular appointment, one has to come through the Staff Selection Commission. That Commission was expected to send qualified candidates for three vacancies. Besides, vacancies were ~~also~~ reserved for SC/ST category and from surplus pool. It was under these circumstances that pending availability of candidates from such other sources like the Staff Selection Commission for regular appointment, the applicant was appointed on a purely ad hoc basis for short periods. That appointment would not confer any right on him for regular appointment. The respondents have also pointed out that the applicant is not a workman because Works Clerk, Gr.II in the P&T Civil Wing would be governed by the statutory rules framed under Art.309 of the Constitution.

When this matter was heard, the learned counsel for the applicant invited our attention to Narayani and others vs. State of Kerala (1984 KLT 17). Therein, the Supreme Court had taken the view that in order not to aggravate the problem which would be caused by impending termination of services of certain employees in the public sector corporations in the State of Kerala where persons selected by the Public Service Commission have to come and assume charge, it was directed that the petitioners might be allowed to continue in service if vacancies exist and that they should be allowed to appear for the next examination to be conducted by the Public Service Commission. The counsel prayed that similar action could be taken here also. The learned counsel for the respondents however pointed out that the applicants in 1984 KLT 17 came under the category of workmen whereas the applicant herein who is a works clerk, does not come under that category. There are

separate service rules framed under Art.309 of the Constitution by which such clerical staff in the P&T Civil Wing would be governed. Accordingly he pressed for a dismissal of the application.

Admittedly all persons working in the P&T Department would not automatically become workmen. For clerical staff like the applicant there are statutory rules which have been framed and they would be governed by such rules. It is also not in dispute that regular appointments to the clerical grade in the P&T civil wing can be made only through the Staff Selection Commission. Action had been taken to call for qualified candidates through the Staff Selection Commission. The regular vacancies which exist there are also reserved ones for SC/ST category. As some time lag was expected before qualified candidates from the Staff Selection Commission become available, purely short-term ad hoc appointment of the applicant was ordered. When candidates from the Staff Selection Commission become available, such ad hoc appointees like the applicant ^{have} ~~has~~ necessarily to give room to regular appointees. The earlier ad hoc appointment for

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specified short periods would not confer any right on the applicant for appointment in violation of the procedure prescribed for such appointments. The learned counsel for the respondent has already pointed out that the reference made to 1984 KLT 17 is not applicable to the facts of this case. Therein also it has been clearly brought out by the Supreme Court that their order would not confer any right on the petitioners to continue in service or of being selected by the Public Service Commission otherwise than in accordance with the relevant rules and regulations.

In the light of the above, the application is dismissed.

C. Venkataraman
26/8/87

(C. VENKATARAMAN)
ADMV. MEMBER

G. Sreedharan Nair
26-8-87

(G. SREEDHARAN NAIR)
JUDL. MEMBER

Index: Yes/~~no~~