

CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH

Original Application No. 180/00620/2017

Monday, this the 28th day of January, 2019

CORAM:

Hon'ble Mr. Ashish Kalia, Judicial Member

E.Manoj
Casual Mazdoor, Vallakadavu Post Office
Thiruvananthapuram – 695 008
Residing at T.C.40/688, Shanthi Bhavan
Manacaud P.O, Thiruvananthapuram-695 009

..... **Applicant**

(By Advocate : Mr.Vishnu S.Chempazhanthiyil)

V e r s u s

1. The Senior Superintendent of Post Offices
Thiruvananthapuram North Postal Division
Thiruvananthapuram-695 001
2. The Chief Postmaster General,
Kerala Circle
Thiruvananthapuram- 695 033
3. Union of India, represented by its Secretary &
Director General, Department of Posts
Dak Bhavan, New Delhi - 110116

..... **Respondents**

(By Advocate : Mr.N.Anilkumar,SCGSC)

This application having been heard on 28.1.2019 the Tribunal on the same day delivered the following:

ORDER (ORAL)

Hon'ble Mr. Ashish Kalia, Judicial Member –

The reliefs prayed for in the Original Application are as follows:-

“(i) Direct the respondents to consider the applicant for appointment as MTS/Group D in Thiruvananthapuram North Postal Division.

(ii) Direct the respondents to give effect to the direction in Annexure A5 judgment in respect of the 29 vacancies that were sought to be filled up for the period from 2002 to 2009.

(iii) Direct the respondents to consider and pass orders on Annexure A-9 representation

(iv) Any other further relief or order as this Tribunal may deem fit and proper to meet the ends of justice.

(v) Award the cost of these proceedings. ”

2. Initially the applicant was working as a Casual Labourer in Vallakadavu Post Office since 1989. Based on the fact that he had completed 240 days of engagement in a year, the applicant had approached this Tribunal earlier claiming the benefit of Casual Labourer Scheme issued vide Annexure A-1, but the O.A was dismissed. Aggrieved by the order, the applicant had approached the Hon'ble High Court of Kerala in O.P No.16975/1999, which had remanded the matter for a fresh consideration. However, on further verification, as the applicant could not prove that he had 240 days of service in a year to be eligible for grant of temporary status in terms of Annexure A-1, the O.A was dismissed (Annexure A-2). Applicant along with two others later filed O.A No.660/2003 seeking extension of Annexure A-1 Scheme, which had been declared to be a One

Time Scheme, as per Annexure A-2 judgment. That O.A was disposed of directing to consider the representation of the applicants. However, orders were passed refusing to extend the Scheme vide Annexure A-4. Presently 29 vacancies are available in the Group D category to get appointment under 25% quota fixed for the Casual Labourers.

3. Notices were issued and the respondents put their appearance through Mr.N.Anilkumar, SCGSC and filed a detailed reply statement and submitted therein that at the time of previous litigation, applicant's counsel had conceded that the requisite period of 240 days service in a year as Casual Labourer has not been acquired by the applicant herein and the 5th respondent therein, Secretary, Posts had disposed of the representation of the applicant and rejected the same vide Annexure A-4 order. It is also submitted that there is no ground for extending the Scheme beyond 1.9.1993. The applicant has not produced any proof for extending the benefit of the scheme. Respondents also relied upon judgment passed by the Apex Court in Union of India v. Mohanpal, 2002 (4)SCC 573 where in the Apex Court has categorically held that regularization of casual labourers by granting temporary status was not an ongoing scheme but was a onetime measure. Respondents pray for rejection of the Original Application.

4. Heard Mr.Vishnu S Chempazhanthiyil, learned counsel for the applicant and learned counsel for the respondents at length and perused the records.

5. Mr.Vishnu S Chempazhanthiyil, learned counsel for the applicant submitted at the Bar that the applicant has worked with the respondents for quite long time though he is not able to prove that the applicant has worked 240 days service in an year with department. After filing his first Original Application, he was discontinued by the respondents. Learned standing counsel for the respondents submits that in case the applicant is having any proof, the department is ready to consider his claim.

6. Be that as it may, this Tribunal is of the view that the applicant may make a detailed representation showing all working proof or in case the department finds him suitable, consider him for the post of MTS. In the meantime, applicant may be considered for casual appointment posts also in case as and when required by the department. The Original Application is disposed of as above. No costs.

(ASHISH KALIA)
JUDICIAL MEMBER

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List of Annexures

Annexure A-1 - True copy of the Casual Labourer (Grant of Temporary Status and Regularization) Scheme issued vide letter No.45-95/87-SPB-Idated12.4.1991

Annexure A-2 - True copy of judgment dated 11.11.2002 in O.P No.16975/1999 of the Hon'ble High Court of Kerala

Annexure A-3 - True copy of the judgment dated 8.4.2003 in O.A No.311/1997 of the Hon'ble Tribunal

Annexure A-4 - True copy of order No.66-112/2003-SPB-I dated 16.2.2004 issued by the Director (Staff),Ministry of Communications & IT, Department of Posts

Annexure A-5 - True copy of the judgment in W.P(C) No.9488/2009 of the Hon'ble High Court of Kerala

Annexure A-6 - True copy of Memo No.BIE/Temp.Status dated 11.11.2011 issued by the 1st respondent

Annexure A-7 - True copy of the representation dated 26.10.2012 addressed to the 1st respondent

Annexure A-8 - True copy of order in O.A No.491/2014 of the Hon'ble Tribunal

Annexure A-9 - True copy of the representation dated 17.11.2016 to the 2nd respondent

Annexure A-10 - True copy of list furnished by the respondents along with reply statement in O.A No.491/2014 in respect of vacancies of Group D filled up all over Kerala

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