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**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No.180/00228/2015

Thursday, this the 7th day of February, 2019

CORAM:

HON'BLE Mr.E.K.BHARAT BHUSHAN, ...ADMINISTRATIVE MEMBER
HON'BLE MR.ASHISH KALIA, ...JUDICIAL MEMBER

Shri K.Vijayan,
Aged 48 years,
S/o Koyon Balan,
Mazdoor, Office of Sub Record Officer,
RMS 'CT' Division,
Kannur – 670 001,
Residing at Koyan House,
Kanul P.O., Via Kalliassery,
Kannur District – 670 564.Applicant

(By Advocate Mr.T.A.Rajan)

Versus

1. The Union of India,
Represented by the Secretary to the
Government of India,
Ministry of Communication,
New Delhi- 110 001.

2. The Superintendent,
RMS 'CT' Division,
Calicut – 673 022.

3. The Post Master General,
Northern Region,
Calicut – 673 011.

4. The Inspector of Posts,
RMS 'CT', 1st Sub Division,
Kannur – 670 001.

....Respondents

(By Advocate Mr. Sinu G. Nath for Respondents-1to3)

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This application having been heard on 4th February, 2019, the Tribunal on 7th February, 2019 delivered the following :

ORDER

HON'BLE Mr.E.K.BHARAT BHUSHAN, ...ADMINISTRATIVE MEMBER

OA No.228/2015 is filed by Shri K.Vijayan who claims to be working as Mazdoor, Railway Mail Service, Kannur, aggrieved by non-appointment to the post of Multi Tasking Staff in the RMS 'CT' Division. Through this OA he seeks appointment to the post of Multi Tasking Staff from the vacancies of the year 2012 with all consequential benefits.

2. In the OA, the applicant states that he was initially engaged as a Casual Mazdoor in RMS, Kannur in January, 1985 and has been continuing there ever since. In reply to a communication No.B1/Staff dated 01.04.2013 calling for details of Casual Mazdoors appointed before 01.01.1993 now working in RMS 'CT' Division, the Sub Record Officer gave a reply by communication No.SRO/EST/2013 dated 01.04.2013 that there are no Casual Mazdoors currently working (Annexure A2). The applicant mentions that this communication was issued without considering the continuance of the applicant from 1985 onwards. He has been filing representations for regularisation as MTS at periodic intervals, but this had been to no avail.

3. The 2nd respondent had inquired into the case of the applicant and

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statements had been taken from certain retired and serving staff. All of them have admitted that the applicant has been working from 1985 onwards. But these have failed to convince the authorities about his eligibility for confirmation. Unfortunately there are no records available with the applicant which would show that he has been continuously employed since 1985. He states that statement of the persons referred to is adequate evidence.

4. In the reply statement filed on behalf of the respondents, the contentions of the applicant have been strongly disputed. As is seen from Annexure A2 communication there is no Mazdoor employed in RMS, Kannur when the matter was inquired in 1993. There is none working at present either. The applicant had been engaged as a substitute during the leave vacancy of GDSMM and such substitute service cannot be categorised as Casual Labour. Documents at Annexure R1 (A1 to A14) show leave applications of GDSMM nominating the applicant as substitute, which clearly go to indicate that the applicant was engaged only as a substitute as and when need arose. The Sub Record Officer, Kannur was correct in issuing Annexure A2 reporting that there are no casual Mazdoors engaged on or before 01.09.1993.

5. It is true that as per Annexure A3 the Postmaster General, Northern Region, Calicut had called for the details of Casual Labourers working in RMS CT Division. This was as a result of the applicant filing a representation before the Superintendent, RMS CT Division. However, the inquiry revealed that the

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applicant had been engaged only as a substitute during the period of leave of regular GDSMM. As there was no provision to treat such substitute as casual labour, his request could not be entertained.

6. Heard Shri T.A.Rajan, learned Counsel for the applicant and Shri Sinu G. Nath on behalf of the respondents. The issue lies in a narrow compass. The applicant claims that he has been working as a Casual Mazdoor in RMS CT Division, Kannur. The respondents are just as categoric in stating that he was not appointed as casual labour and was engaged only as a substitute during the leave periods of regular employees. The applicant has no evidence whatsoever to prove his continuous employment or the fact that he was a casual worker for more than 240 days in a year. All the documents produced from either side reveal that he was only a substitute worker.

7. Under the circumstances, we are unable to see any merit in the OA. The same is dismissed. No costs.

(ASHISH KALIA)
JUDICIAL MEMBER

(E.K.BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

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List of Annexures in O.A. No.180/00228/2015

1. **Annexure A1** – True copy of the Order No. B1/Staff dated 01.04.2013.
2. **Annexure A2** – True copy of the order No.SRO/EST/2013 dated 01.04.2013.
3. **Annexure A3** – True copy of the order No.Rectt/4-1-Dlgs/2013/23-6-13 dated 11.07.2013.
4. **Annexure A4** – True copy of the representation dated 20.07.2013.
5. **Annexure R1 (A1 to A14)** – Leave Orders
6. **Annexure R2 (A1 to A4)** – Leave applications.
7. **Annexure R3** - Copy of the letter dated 21/09/1988 with Endt. No.B1/MSZ/Rlgs.
8. **Annexure R4** - Copy of the statement of K.Prathapan.
9. **Annexure R5** - Copy of reply no.BIII/MZR/Dlg/1
10. **Annexure R6** - Copy of statement of applicant dated 24.07.2013.
11. **Annexure R7** - Copy of statement of C.K.Pavithran dated 24.07.2013.
12. **Annexure R8** - Copy of statement of K.M.Kuriakose dated 24.07.2013.
13. **Annexure R9** - Copy of statement of K.Vijyan dated 24.07.2013.
14. **Annexure R10** - Copy of statement of V.Gireesh dated 24.07.2013.
15. **Annexure R11** - Copy of letter No.SRO ED/CL/2000-2001 dated 08/04/2000.
