

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/020/00452/2014

HYDERABAD, this the 2nd day of December, 2019

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman

Hon'ble Mr. B.V. Sudhakar, Admn. Member

K KANAKARAJU,
S/o K. Balaram,
Occ: LDC, R/o D.No. 10-84,
Thadichettlapalem, Sagar Nagar,
Visakhapatnam 530 045.

... Applicant

(By advocate: Mrs. Anita Swain)

Vs.



1. Union of India rep. by its
Secretary, Ministry of Defence,
South Block, New Delhi 110 011,
2. The Chief of Naval Staff,
Integrated Headquarters,
Ministry of Defence,
Sena Bhavan, PO. DHQ,
New Delhi 110 011,
3. Flag Officer-Commanding in Chief,
Head quarter Eastern Naval Command,
Naval Base, Visakhapatnam,
4. The Admiral Superintendlent,
Naval Dockyard, Visakhapatnam.

Respondents

(By advocate: Mrs. L. Pranathi Reddy, Addl. CGSC)

ORAL ORDER

PER HON'BLE Mr. JUSTICE L.NARASIMHA REDDY, CHAIRMAN

Applicant was appointed as Lower Division Clerk on casual basis in the Naval Establishment, on 05.05.1981. Complaining that his services are not being treated as regular with effect from the date on which he was appointed, applicant filed OA 287/1994. The same was allowed on 28.07.1994 following the judgment of Hon'ble High Court of Andhra Pradesh in Writ Petition No.7269/1981 as well as the order in OA 70/1990.

2. The scheme of Assured Career Progression (ACP) was introduced through O.M. dated 09.08.1999. Though the applicant completed 12 years of service by that time, he was not extended the benefit of ACP. He made representation in that behalf. Through communication dated 20.01.2014, respondents rejected his claim. Hence, this OA.

3. Applicant contends that once there was an order of the Tribunal in OA 287/1994 directing that the period of casual service should be treated as regular one, there is no basis for the respondents to deny that benefit. It is also stated that All India Naval Clerks Association filed OA before Ernakulam Bench and, though the relief was granted therein, it was denied to the applicant.

4. Respondents filed counter affidavit stating that the regular service alone will count for extension of ACP. According to them applicant was regularly appointed only in the year 1985 and therefore, the benefit was not extended to him. The contention of the applicant that the members of the Association were extended the benefit, is also contradicted.



5. Heard Mrs. Anita Swain, learned counsel for applicant and Mrs. L. Pranathi Reddy, learned standing counsel for respondents.

6. The controversy is as to the manner in which, the casual service between the initial appointment from 05.05.1981 and the date of regularisation i.e., 11.04.1985 is to be treated. Assuming that the appointment of applicant in 1981 was only casual, once it is regularized, the appointment dates back to one of initial appointment. Added to that, once applicant was granted the relief through a specific direction in OA 287/1994, it is not open to respondents to contend to the contrary. The mere fact that the applicant is not a member of the Association, does not deprive him of the benefit which the members of the Association, who were similarly situated, were extended.

7. We, therefore allow OA, directing respondents to grant service benefits to the applicant from 05.05.1981 in the context of extending the benefit of ACP and other similar benefits. Since the applicant retired from service, the benefit of calculation shall be in terms of revision of pension. Applicant is entitled to the benefit of arrears of difference in pension, with effect from 01.01.2017.

8. This exercise shall be completed within six weeks from the date of receipt of this order.

9. There shall be no order as to costs.

(B V SUDHAKAR)
MEMBER (A)

(JUSTICE L.NARASIMHA REDDY)
CHAIRMAN

vsn