CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

DATE: 11.10.93

O.A. 420/92

T.M. Mathai
Master Oil Tanker
Naval Ship Repair Yard
Kocnin-4 Applicant

vs.

1. Union of India represented by Secretary, Ministry of Defence New Delhi

2. Flag Officer Commanding-in-Chief, Soutnern Naval Command, Kocni-4 Respondents

Mr. Vargnese Mylotn — Counsel for tne applicant

Mr. Joy George, ACGSC — Counsel for the respondents

CORAM

THE HON'BLE MR. N. DHARMADAN JUDICIAL MEMBER

&

THE HON'BLE MR. S. KASIPANDIAN ADMINISTRATIVE MEMBER

JUDGMENT

MR. N. DHARMADAN JUDICIAL MEMBER

The applicant, now working as Master Oil Tanker in the Naval Ship Repair Yard, for short NSRY, Kocni has filed this application under section 19 of the Administrative Tribunals' Act challenging Annexure A-3 order passed by the Captain Supdt., NSRY, Cochin rejecting his representation for counting his casual service from 16th August, 1983 to 9th February, 1985 to be included along with his regular service for the purpose of granting pension and other service benefits except seniority.

2. According to the applicant, after his service in the Navy, he joined the NSRY as a casual employee on 16.8.1983. He was regularised and absorbed in the post of Master Oil Tanker w.e.f. 12.2.85. If the total service

is to be counted from the date of regularisation, it will come to only 8 years and 11 months and he will not be eligible for pension. On the other hand, if the casual service rendered by the applicant from 16.8.83 after condoning the artificial break is also taken into consideration and added with the regular service, he will be entitled to pensionary benefits under the CCS Pension Rules. The applicant is to retire from service w.e.f. 31.1.94 on superannuation. Hence, he filed a representation before the second respondent for counting his casual service along with regular service for grant of pensionary benefits. That representation has been rejected by Annexure A-3 impugned order.

3. The respondents filed a reply stating that the applicant's regular service from 12.2.85 alone can be taken into consideration for calculation of pensionary benefits to be granted to the applicant. There is no orders issued by the NSRY for computation of casual service of a employee along with the regular service for grant of pensionary benefits as prayed for in the original application.

4. We have gone through the impugned order. The authority has not considered the relevant orders while passing the impugned order. In fact while disposing of the representation, they have confused the issue with regard to the claim of the applicant for counting of the service rendered by him in the Port Trust, which is a Public Autonomous Body in which he worked before joining the NSRY. The only reason mentioned in the impugned order for denying his past service from 16.8.83 to 12.2.85 is that " presently no order exists for counting casual service to regular service for pensionary service."

..

This reason is wrong and cannot be accepted. This Tribunal considered the issue of regularisation of casual service of employees from the dates of their original appointment by condoning thebreaks in service as in other cases with all consequential benefits except that of seniority and held as follows:

> "In the conspectus of facts and circumstances, we allow this application in part to the extent of directing that the applicants should be regularised from the dates of their original appointment on a casual basis by condoning the breaks in service as in other cases with all consequential benefits except that of seniority. ....." (O.A. 569/90,A.N.Krishnan Nair Vs.General Manager,Southern Railway and others)

In the judgment, this Tribunal also considered two of the Departmental orders dated 24.11.67 and 20.10.86 issued in this connection for counting casual service.

5. From the judgment it is very clear that the statement contained in the impugned order that 'no order exists for counting casual service towards regular service for pensionary benefits.' is wrong and cannot be sustained. This Tribunal has considered the issue and held that casual service rendered by employees with artificial breaks can be added along with regular service after condoning the artificial breaks in the matter of regularisation of service and grant of service benefits to such employees except seniority.

6. In this view of the matter, the continuous service (casual service) can alsobe taken into consideration while computing pensionary benefits. The applicant is limiting his prayer for inclusion of his casual service rendered by him in the NSRY from 16th August, 1983 to 9.2.1985. The limited prayer can be granted in the light of the dictum laid down by the Tribunal as extracted above.

7. Hence, we are unable to sustain Annexure A-3 order. Accordingly, quash the same and direct the second respondent to include the applicant's casual service from

..

16th August, 1983 to 9th February, 1985 as regular service wnile computing pensionary benefits in accordance with law.

8. The application is allowed as indicated above.

9. There snall be no order as to costs.

(S. KASIPANDIAN)
ADMINISTRATIVE MEMBER

11.10.93

(N. DHARMADAN)
JUDICIAL MEMBER

11.10.93

kmn

List of Annexures

1. Annexure A-3 : Impugned order No. NSRY/10/267 dated 24.1.92

2. Annexure A-2 : Representation dated 6.10.91