

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.424 of 1998.

Friday this the 24th day of November, 2000.

CORAM:

HON'BLE MR A.M.SIVADAS, JUDICIAL MEMBER

HON'BLE MR G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

1. Smt. L. H. Thilakavathy,
Upper Division Clerk,
Naval Armament Depot,
Alwaye.

2. Smt. Sophy Williams,
Lower Division Clerk,
Naval Armament Depot,
Alwaye.

Applicants

(By Advocate Shri M. Girijavallabhan)

Vs.

1. The Chief of the Naval Staff
(Directorate of Naval Armament)
Naval Headquarters, New Delhi.

2. The Chief Staff Officer (P&A),
Headquarters Southern Naval Command,
Cochin-682004.

Respondents

(By Advocate Shri Govindh K. Bharathan, SCGSC)

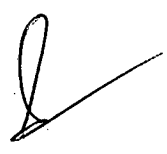
The application having been heard on 24.11.2000, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR A.M.SIVADAS, JUDICIAL MEMBER

The applicant seeks the following reliefs:

"a) to declare that Annexure A-11 and A-12 issued to the applicants are illegal, arbitrary, malafide, without any legal foundation and excessive exercise of power and also is opposed to Annexure A-1 and A-2 and also against the basic Government order dated 24-11-1967 and hence liable to be quashed.



b) to direct the respondents that the impugned orders at Annexure A-11 and A-12 issued to the applicants are not liable to be acted upon, being abuse of the exercise of powers.

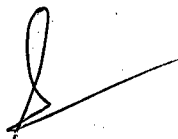
c) to direct the respondents not to initiate any steps against the applicants pursuant to the impugned orders at Annexure A-11 and A-12 for recovery of pay and allowances already paid to them pursuant to the fixation of pay and allowances made on the basis of Annexure A-5, A-5(a) and A-6.

d) to grant such further relief this Hon'ble Tribunal deems just in the circumstances of the case including the costs of this O.A."

2. The representations of the applicants for regularisation of the casual service after condoning the break was rejected as per A-11 and A-12.

3. Applicants say that the impugned orders do not disclose on what legal grounds the respondents 1 and 2 have restricted and treated the breaks of 29 days and below alone as technical or artificial and that the breaks of 30 days and more as not artificial or technical that the alleged long breaks in the services of the applicants are reckonable in terms of the provisions of Maternity Benefit Act and that the impugned orders are liable to be set aside.

4. Respondents resist the O.A. contending that in all the previous judgements this Tribunal directed condonation of artificial/technical breaks in the service and to give benefits as envisaged in the Government letter dated 24.11.67 that the Tribunal has not directed to condone unlimited breaks




and that this Bench of the Tribunal in O.A.Nos.1100/95,287/97, 469/97, 475/97 and 555/97 accepted the stand of the respondents and that the O.A. is liable to be dismissed.

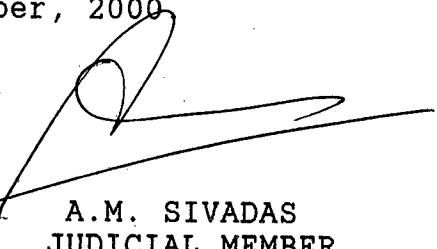
5. When the O.A. was taken up it was submitted by the counsel on both sides that the facts in this O.A. are identical to the facts in O.As. 1100/95, 287/97, 469/97, 475/97 and 555/97.

6. In the common order passed in those O.As. this Bench of the Tribunal considering the rival contentions dismissed all the O.As. Since the facts are admittedly identical in this O.A. and in the O.As. referred to above, following the common order in the said O.As., this O.A. is only to be dismissed.

7. Accordingly this O.A. is dismissed. No costs.

Dated the 24th November, 2000


G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER


A.M. SIVADAS
JUDICIAL MEMBER

List of Annexures referred to in the order:

Annexure A-1: True copy of judgement dated 19.2.92 in O.A. No. 30/91 of this Hon'ble Tribunal.

Annexure A-2: True copy of judgement dated 20.7.92 in O.A. No. 978/92 of this Hon'ble Tribunal.

Annexure A-5: True extract of establishment list No. 18/93 dated 11.2.93 3rd respondent.

Annexure A-5(a): True extract of civilian establishment order No. 45/93 dated 21.12.93.

Annexure A6: True extract of civilian establishment list No. 88/93 dated 18.11.93 of 3rd respondent.

Annexure A-11: True photo copy of order No.2695/43/167 dated 29.9.97 of the 2nd respondent to the 1st applicant.

Annexure A-12: True photo copy of order No. 2695/43/278 dated 29.9.97 of the respondent to the 2nd applicant.