

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.438 of 1994

Tuesday this the 22nd day of March, 1994

CORAM

Hon'ble Mr. Justice Chettur Sankaran Nair, Vice Chairman

Hon'ble Mr. P.V. Venkatakrisnan, Administrative Member

1. T.P. Attakoya, Casual Labourer
Electrical Sub Division,
Androth Island, U.T. of Lakshadweep.
2. M. Mohammed Basheer -do-
3. M. Sayed Koya -do-
4. M. C. Khaleel -do-
5. P. A. Mohammed Abdul Naser -do-
6. P. Sayed Mohammed -do-
7. T. Mohammed Kassim -do-
8. P. P. Sharafudeen -do-
9. K. K. Musthafa -do-
10. A. Pookunhi -do-
11. P. K. Khaleel -do- Applicants
12. P. K. Mohammed Khaleel -do-

(By Advocate Mr. M. A. Shefik)

Vs.

1. Union of India represented by
the Secretary, Ministry of Home
Affairs, New Delhi.
2. The Administrator, Union
Territory of Lakshadweep.
3. The Assistant Executive Engineer,
Department of Electricity,
U.T. of Lakshadweep, Kavaratti.
4. District Employment Officer,
Union Territory of Lakshadweep,
Kavaratti. Respondents

(By Advocate Mr. MVS Namboodiri rep. through Satheesan)

ORDER

CHETTUR SANKARAN NAIR (J), VICE CHAIRMAN

Applicants who are working as casual employees
in the Electricity Department in the Androth Island,


challenge the decision of the Administration to fill up 50% of the posts of Oilman by direct recruitment. They rely on various decisions of the Supreme Court to contend that no direct recruitment can be made while casual employees await regularisation. The Supreme Court had occasion to notice the plight of casual employees who live in a state of uncertainty for long years. The Apex Court issued directions to regularise such employees, on humane considerations. The Court in its wisdom left it to the administrative authorities to work out the details, such as the extent to which posts should be filled-up with casual employees. We do not read the Supreme Court decisions to mean that direct recruitment is not to be made until every casual employee is regularised. If that were to be so, that will be conferring an undue advantage on persons, not appointed in accordance with rules, over persons who may be regularly recruited in accordance with rules. A question whether Articles 14 and 16 would be violated also may arise if a monopoly is made in favour of casual employees. We need not stray into these areas, when Supreme Court has not held that direct recruitment should not be made, until all casual employees are absorbed. For a fact a situation, where no casual employee is left behind may not arise, because casual employees may find their way in. Unless you turn off the faucet, no amount of mopping will wipe out the floor.

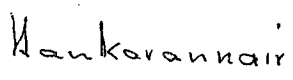
2. However, consistent with the spirit of the directions of the Supreme Court every department must

consider to what extent casual employees should be regularised. In considering this the length of service rendered by them, prospects of their future and alternate employment and several other imponderables may enter consideration. It is for the Administration to consider whether the employees who have been working for long years in this department should not be provided jobs within a reasonable time, at once without blocking the career prospects of a large number of persons waiting in the open market. We are told that the Government of India have issued orders regarding the percentage in which direct recruits and casual employees should be appointed. We direct the respondent Administration to take a decision in the matter and applicants will be free to make representations. Representations, if any, will be made within one month from today and a final decision will be taken thereon within three months of the date of receipt of the representation^s. Till a decision is so taken, respondents shall not make appointments of an irrevocable nature, lest the decision taken on the representation^s is defeated.

3. With the aforesaid directions, application is disposed of. No costs.

Dated 22nd March, 1994.


P.V.VENKATAKRISHNAN
ADMINISTRATIVE MEMBER


CHETTUR SANKARAN NAIR (J)
VICE CHAIRMAN