

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.445/04

Thursday this the 20th day of July 2006

C O R A M :

**HON'BLE MRS.SATHI NAIR, VICE CHAIRMAN
HON'BLE MR.K.B.S.RAJAN, JUDICIAL MEMBER**

K.M.Baby Girija,
Assistant Store Keeper,
Material Organisation, Kochi – 4.

...Applicant

(By Advocate M/s.Santhosh & Rajan)

Versus

1. Union of India represented by the Secretary,
Ministry of Defence, New Delhi.
2. The Flag Officer Commanding-in-Chief,
Head Quarters, Southern Naval Command,
Kochi – 4.
3. The Chief Staff Officer (P & A),
Head Quarters, Southern Naval Command,
Kochi – 4.

...Respondents

(By Advocate Mr.T.P.M.Ibrahim Khan,SCGSC)

This application having been heard on 20th July 2006 the Tribunal on the same day delivered the following :-

ORDER

HON'BLE MRS.SATHI NAIR, VICE CHAIRMAN

The applicant in this O.A was initially appointed as Safaiwala on casual basis on 6.2.1985 and was later regularised in service on 1.2.1989. In this application she is seeking regularisation of her service from the date of her initial appointment on casual basis on the ground that various Benches of the C.A.T have held that the employees who were initially appointed on casual basis are entitled to be regularised from the date of their initial appointment on casual basis with all attendant benefits. Earlier the applicant had filed O.A.94/04 in this regard which was disposed of

permitting the applicant to make a detailed representation. The said representation has been rejected by the impugned order forcing the applicant to come before this Tribunal by filing this O.A. The applicant seeks relief on the following grounds :-

1. The applicant was initially appointed and continued in a non industrial establishment. She was regularised in service with effect from 1.2.1989 in a non industrial establishment. This being the position she is entitled to get the benefits of Annexure A-6 judgment. Her status or position in 1995 has no relevancy to deny the benefits.
2. The benefits of Annexure A-6 and similar other judgments were extended to employees in industrial cadre also. Thus several employees working in the N.A.D were given similar benefits. The non extending the same benefits to the applicant is unjust and illegal for this reason also.
2. In the reply statement filed by the respondents the facts regarding the applicant's initial engagement as Safaiwala on casual basis with effect from 6.2.1985 and her absorption in the said post on 1.2.1989 are not denied. It is submitted that various Benches of the Hon'ble Tribunal had given ruling that the services rendered on casual basis were to be regularised by condoning the break periods and those who have approached the Tribunal in this regard have been extended the benefits. Later the Government had issued a sanction vide Ministry of Defence letter dated 26.6.1995 (Annexure R-1) extending the same benefits to all similarly placed employees and consequently sanctioning regularisation of the casual service in respect of 4313 employees of non industrial cadre who are working in Navy and were non petitioners in the Court cases as a one time measure. Respondents contended that this benefit could not be granted to the applicant as the applicant was holding a post of Industrial cadre in the year 1995 and her case could not be considered in isolation. As the question of extending the benefits to the non petitioners of the Industrial cadre had been taken up with Naval Headquarters separately for

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consideration of the Government and it has been intimated by Naval Headquarters that the case is under consideration before the Ministry of Defence it could be examined once a decision by Industrial Tribunal (Mumbai) is given in the Industrial Dispute between the Management of Western Naval Command and Indian Naval Employees Union.

3. We have heard the counsel for both the sides and perused the material on record. The fact that the applicant was initially appointed as Safaiwala and also regularised as a Safaiwala with effect from 1.2.1989 are admitted by the respondents and their only contention is that the post of Safaiwala which is a non Industrial post had later been converted to unskilled labourer which belongs to Industrial cadre. No record has been produced to show when the post was actually converted. As seen from the impugned order at Para 3 (a) respondents have themselves stated that the post was converted into the post of unskilled labourer with effect from 1.6.1990 and she was subsequently promoted as Semi Skilled Labourer on 1.3.1995. It is evident from the statement that the conversion into the post of unskilled labourer took place on 1.6.1990 by which time she had already been regularised i.e. from 1.2.1989. The applicant is only seeking ante dating of her regularisation from 1989 to 1985 which period is not covered by the dispute regarding industrial or non industrial as contended by the respondents since it is an admitted fact that she was initially appointed only to the non industrial cadre of Safaiwala in 1985. Hence till the conversion on 1.6.1990 she belonged to the non Industrial cadre. Therefore the contention of the respondents that the benefits of regularisation as granted to the non petitioners by Annexure R-1 could not be extended to the applicant since she belonged to industrial cadre is baseless.

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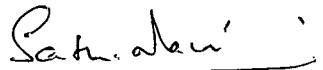
4. We are, therefore, of the view that the claim for regularisation has to be considered with reference to her status as on the date of initial appointment and not as on 1995 when the sanction for regularisation in case of non petitioners was issued. The prayer of the applicant is, therefore, to be allowed. We direct the respondents to regularise the service of the applicant with effect from the date of initial appointment on casual basis i.e. with effect from 6.2.1985 condoning the artificial breaks. She will also be entitled to all consequential benefits except seniority as granted in respect of those employees regularised vide Annexure R-1 order. O.A is, accordingly, allowed. The above order shall be complied with within a period of three months from the date of receipt of a copy of this order. No order as to costs.

(Dated the 20th day of July 2006)



K.B.S.RAJAN
JUDICIAL MEMBER

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SATHI NAIR
VICE CHAIRMAN