

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No.
T. A. No.

463

1991

DATE OF DECISION

2.4.92

Jayaram Menon _____ Applicant (s)

Mr. M. Girijavallabhan _____ Advocate for the Applicant (s)

Versus

The Chief of Naval Staff,
Naval Headquarters, New Delhi _____ Respondent (s)
and others

Mr. V. Krishnakumar, ACGSC _____ Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. P. S. HABEEB MOHAMED, ADMINISTRATIVE MEMBER

The Hon'ble Mr. N. DHARMADAN, JUDICIAL MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement? ✓
2. To be referred to the Reporter or not? ✓
3. Whether their Lordships wish to see the fair copy of the Judgement? ✓
4. To be circulated to all Benches of the Tribunal? ✓

JUDGEMENT

MR. N. DHARMADAN, JUDICIAL MEMBER

The applicant is working as Assistant Store Keeper in the Naval Armament Depot, Aluva under the third respondent from 4.6.90 on a casual basis and thereafter from 5.10.1981 as a regular employee.

2. In this application filed under section 19 of the Administrative Tribunals' Act, he seeks regularisation of his service w.e.f. 4.6.1980 ignoring the artificial breaks.

He has filed this application mainly with the following prayers:

"i) to declare that the applicant is also a similarly situated person entitled to regularisation from the date of initial entry in service with all the consequential benefits like leave, increment etc.

except seniority as found entitled to as per the final order in O.A. 434/89 and 609/89 rendered on 22.12.90 duly condoning the artificial break.

- ii) to direct the respondents to grant the applicants all the benefits like leave, increment and other benefits, except seniority as admissible under Annexure 'A' in accordance with the finding in O.A. No. 434/89 and 609/89 of this Hon'ble Tribunal
- iii) to grant such further reliefs this Hon'ble Tribunal deems just in the circumstances of the case and
- iv) to award the costs of this O.A."

3. The respondents have filed counter affidavit.

4. Today when the case came for hearing, the learned counsel for the applicant brought to our notice the judgment of this 'Tribunal in O.A. 527/91 ^{in which 1/} raising identical ^{order for consideration. 1/} issues. This was heard and allowed by judgment dated 28.2.92. The operative portion of the judgment is extracted below:

"So far as the benefit of seniority is concerned which was excluded by the order dated 27.5.80, the matter was referred to a Larger Bench. Since the applicant before us is not claiming the benefit of seniority, adopting the dictum in the aforesaid judgment in O.A. 434/89, we allow this application with the direction that the respondents shall ignore the artificial or technical breaks in the casual service of the applicant and regularise his casual service as Assistant Store Keeper from the date of his initial appointment on a casual basis with all benefits due to him as per the Ministry of Defence letter dated 24.11.87 at Annexure-A as amended by the corrigendum dated 27.5.80 at Annexure-B...."

5. In this case also, the applicant is not claiming the benefit of seniority. He has limited his prayer ^{to} ^{1/} only for getting regularisation from the date of his initial engagement as casual employee w.e.f. 6.4.80. The details of his service before regularisation as given ^{are} ^{1/} in the application ^{is} ^{1/} extracted below:

	<u>From</u>	<u>To</u>	<u>Break</u>
	4.6.80	3.9.80	2 days
	6.9.80	5.12.80	-do-
	8.12.80	7.3.81	-do-
	10.3.81	9.6.81	-do-
	12.6.81	11.9.81	-do- "

6. In the judgment in O.A. 527/91, it is ^{not} clear that the applicant ^{is} entitled to regularisation from the initial day of his casual employment.

7. The learned counsel for the respondents submitted that this Tribunal has again referred the question of regularisation/ of employees arising from the order dated 27.5.1980 to the Full Bench in O.A. 973/90. According to him, this case should also be referred to the Full Bench.

8. Having heard the matter, we are of the view that it is not necessary to refer this case along with O.A. 973/90 because it is clear from the judgment in O.A. 527/91 that the cases referred to the Larger Bench pertains to the question of seniority. But the question of seniority is not claimed by the applicant in this case and hence, the ^h case is distinguishable. Accordingly, we follow the judgment in O.A. 527/91 and allow this application with a direction to the respondents that the applicant shall be given the benefit of regularisation ignoring the artificial or technical break in casual service of the applicant. The applicant is entitled to regularisation from the date of his original engagement as casual employee except seniority.

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9. The application is allowed.
10. There will be no order as to costs.

N. Dharmadan 24.92
(N. DHARMADAN)
JUDICIAL MEMBER

P.S. Habeeb Mohamed 24.92
(P.S. HABEEB MOHAMED)
ADMINISTRATIVE MEMBER

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