

- Open Court -

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No: 465 of 91 ~~100~~
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DATE OF DECISION 2-3-4-92

K. Ramakrishnan Pillai Applicant (s)

M. Girijavallabhan Advocate for the Applicant (s)

Versus

Union of India represented Respondent (s)
by the Ministry of Food Processing
Govt. of India, New Delhi and 2 others

Mr. V. Krishna Kumar ACGSC Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. N.V. Krishnan, Member (Administrative)

The Hon'ble Mr. N. Dharmadan, Member (Judicial)

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? No
3. Whether their Lordships wish to see the fair copy of the Judgement? Yes
4. To be circulated to all Benches of the Tribunal? No

JUDGEMENT

N. Dharmadan, M(J)

The applicant is at present working as Junior Deckhand under the third respondent. He filed this application for a declaration that he is a regular employee having temporary status eligible for all consequential benefits. He has also prayed for regularisation of his service with retrospective effect.

2. According to the applicant he commenced his service on 23-11-81. In 1983 when there was a threat of termination he filed OP 8243/83 and obtained Annexure-A

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12.11.92

judgment, directing the applicant to file a petition before the Labour Court to establish his right under the Industrial Disputes Act. He filed a CMP in the said O.P. and obtained Annexure-B clarification. He was continuing in service. Subsequently, when there was again an attempt to terminate his service he filed OP 1032/86 which resulted in Annexure-C judgment. However, the applicant is still continuing in service without being regularised. ⁴² ~~in service.~~ His representation for getting regularisation was disposed of by the Zonal Director as per Annexure-G letter dated 5-3-90. It reads as follows:

"..With reference to your notice cited regarding regularisation of service in respect of Shri K.R.K. Pillai, Casual Deckhand I am to inform you that the issue for regularisation of service of the above individual is under the active process of the department, and orders on the subject to their eligibility for holding the post on regular basis...."

3. The respondents filed reply and additional reply.

The applicant has filed rejoinder to the reply of the respondents.

4. When the case came up for final hearing today, the learned counsel for the applicant submitted that identical question has been considered by this Tribunal in OA 104/91 and directed the respondents to regularise the services of the applicants therein by creating supernumery post or passing appropriate orders in relaxation of existing rules.

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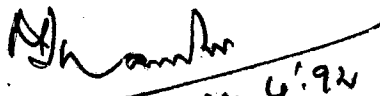
The learned counsel for the respondents, though agreed that the decision in OA 104/91 will apply to this case, he, however, submitted that there is some difference. According to the learned counsel for the respondents the applicants in OA 104/91 obtained a judgment in their favour from this Tribunal directing the respondents to consider the applicants therein for regularisation. Such a direction has not been obtained by the applicants before us.

5. We have heard the arguments and gone through the documents. Even though the applicant in this case had not obtained in his favour similar direction from this Tribunal as in the case referred to above, OA 104/91, it is clear from Annexure-G that the question of regularisation is being considered by the respondents and final orders will be passed subject to the eligibility of the applicant. It is clear from this statement that applicant is eligible for consideration of his right for regularisation notwithstanding any direction from this Tribunal. There is no case for the respondents that the applicant is not eligible for consideration of regularisation in terms of the judgment rendered by us in OA 104/91.

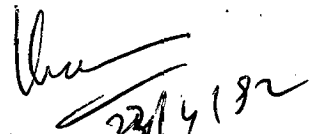
6. Having regard to the facts and circumstances of the case we are of the view that the decision of this Tribunal

in OA 104/91 will apply to this case also and we are inclined to follow the decision referred to above and allow the application with the following directions.

7. Accordingly, we follow the judgment in OA 104/91 and direct that the respondents should regularise the services of the applicants either by creating supernumery posts or passing appropriate orders in relaxation of the existing rules. This shall be done within a period of three months from the date of receipt of copy of the judgment. The application is accordingly allowed to the extent indicated above. There shall be no order as to costs.


24.4.92

(N. Dharmadan)
Member (Judicial)


23/4/92

(N.V. Krishnan)
Member (Administrative)

23-4-91

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CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

CPC No.101/93(O.A.No. 465/91)

Wednesday the 3rd November, 1993

CORAM

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

The Hon'ble Mr. S. Kasipandian, Administrative Member

K. Ramakrishnan Pillai ... Petitioner

By Advocate Shri Girijavallabhan.M.

Vs.

1. Dr. Sudharsan Reddy, Director General
Fisheries Survey of India,
Botawala Chambers, Sir P.M. Road,
Bombay-1.
2. Sr. K. Vijaya Kumar, Zonal Director,
Fisheries Survey of India, Kozhangadi,
Cochin-5.
3. Mr. N. L. Kapoor, Secretary
Ministry of Food Processing
Govt. of India, New Delhi. ... Respondents

Mr. Poly Mathai rep. Sr. CGSC ...(Advocate for respondents)

ORDER

Chettur Sankaran Nair(J), Vice Chairman.

Petitioner complains that respondents have committed contempt of court by wilfully disobeying the directions in O.A.465/91. The direction was to regularise the services of petitioner by appropriate means, within three months of the date of receipt of a copy of the judgment. That was received on 12.5.92. It had to be complied with by 11.8.92. Admittedly it has not been fully complied with yet.

2. But on 30.7.92 an adhoc appointment was granted to petitioner and it is submitted that all

amounts due to him were also paid. Regularisation was ordered only on 4.8.93 which is almost a year after the time limit prescribed. Even now, regularisation orders have not been issued as Police report is awaited. It is said that as soon as the Police report is received and if it does not stand against the petitioner, orders will be issued. This submission is recorded.

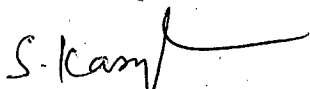
3. We regret to say that respondents 1&3 seem to be under the impression that compliance in part is compliance in full and that they are not bound by the time limit. We must disabuse respondents of such erroneous notions. Though we do not adopt sensitised attitudes in these matters, we are beholden to enforce the orders of this Tribunal effectively and with sanctions when such a course is required. Respondents 1&3 have not acted in the manner, they ought to have. If for any valid reason they could not adhere to the time limit, they should have explained the reasons and sought extension of time. Without doing even so much, they have sought to justify their conduct. We express our displeasure at the manner in which respondents 1&3 have conducted themselves. As for Respondent No.2 we find that he has acted diligently.

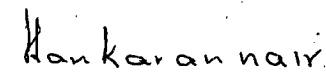
4. Respondents 1&3 have not even expressed regret after several opportunities were granted to them, though they have made use of the vicarious office of the second respondent for this purpose. However, taking an overall view of the matter and viewing the

matter with as much leniency as possible we discharge the notice issued and close the proceedings. However, petitioner has been put to the necessity of approaching this Tribunal for the 4th time because, respondents 1&3 did not act. We direct these respondents to pay Rs. 1000/- (Rupees one thousand only) as compensatory costs to petitioner. The payment will be made within 30 days from today.

5. Contempt Petition is disposed of.

Dated the 3rd day of November, 1993.


S. Kasipandian
Administrative Member


Chettur Sankaran Nair(J)
Vice Chairman

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