

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

**ORIGINAL APPLICATION NO:528/2007
dated the 2nd day of December, 2008.**

CORAM:

**HON'BLE Dr K.B.S.RAJAN, JUDICIAL MEMBER
HON'BLE Ms K.NOORJEHAN, ADMINISTRATIVE MEMBER**

K.S.Sajeev,
Net Maker, CIFNET, Kochi.
Residing at Kumaroth House,
Mills Lane, Pallimukku, Kochi-16. ... Applicant

By Advocate Mr. U.Balagangadharan

V/s

- 1 Union of India represented by the Secretary,
Government of India, Ministry of Agriculture,
(Department of Animal Husbandry and Dairying),
Krishi Bhavan, New Delhi.
- 2 The Director,
Integrated Fisheries Project,
Kochi-16.
- 3 The Director,
CIFNET, Kochi. ... Respondents

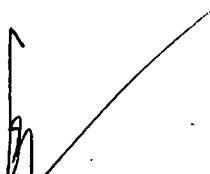
By Advocate Mrs.K.Girija ACGSC

The application having been heard on 2.12.2008
the Tribunal on the same day delivered the following:

ORDER

HON'BLE DR. K.B.S.RAJAN, JUDICIAL MEMBER

The applicant, initially appointed in 1986 as Sales Assistant on
casual basis, on being not regularized, approached this Tribunal by filing
OA 1972/91 and during the pendency of the same, in MA No. 359/92 in the



said OA, an order maintaining status quo was passed on 11th March, 2002. However, as the respondents had allegedly failed to comply with the order, contempt petition No.41/92 was filed and respondent No. 2 had to prefer apology before the Tribunal on that score. OA 1972 was disposed of with a direction to the respondents to consider the claim of the applicant for regularization. This was of course complied with.

2 According to the applicant he stands senior to various persons including one Balamani V.L. And another Annamma Joseph.

3 Later on, the applicant got his temporary status in accordance with the one time scheme of 01-09-1993 as per order No. 60/64 dated 30-04-1994. Again, he was inducted in the post of Net maker in the scale of Rs 800 – 1150 w.e.f. 11-12-1995 on ad hoc basis and confirmed later in the said post w.e.f. 21-09-1997.

4 The applicant had filed OA No. 1205/97 in connection with the above regularization which was disposed of without any order, with only liberty to the applicant to approach the Tribunal in case any grievance survived. The applicant made a representation seeking regularization from the date of his juniors; this was however, rejected by order dated 09-09-1997. A further representation citing regularization of the aforesaid Balamani and Annamma Joseph in 1991 and claiming ante dated regularization having also been rejected, applicant filed OA No. 385/2000 which was rejected by the Tribunal. O.P. No. 29853/2000 was filed before the High Court of Kerala which was disposed on 18-01-2001 with direction



to the 2nd respondent to consider the representation of the applicant, if filed within 2 months. This representation was also dismissed by order dated 15-03-2001. One more representation was made in 2001, followed by reminders in 2006 and 2007 claiming regularization at par with the juniors. These have not been replied. The applicant has prayed for the following relief:-

- (a) Declaration that the applicant is entitled to get regularization as Net Maker w.e.f. the date on which his immediate juniors were regularized.
- (b) Direction to the respondent to consider and dispose of Applicant's Annexure A-3 and A-4 representation within a time frame.
- © Grant such other relief which the Tribunal may deem fit to meet the ends of justice.

5 Respondents have contested the O.A. They had taken the plea of res-judicata. On merit, according to them, Annamma Joseph was appointed on compassionate grounds as Safaiwala on ad hoc basis and was later provisionally appointed as Net Maker. Smt. Balamani who was working as Sweeper on contingency basis was provisionally appointed as Net Maker w.e.f. 29-04-1991. These two appointments being on compassionate ground, the applicant cannot stake any claim for antedated seniority.

6 Counsel for the applicant argued that there is a calculated move



to cripple the career prospect of the applicant, as would be seen the way the respondents have treated the case of the applicant. He argued that on compassionate grounds, one could either be appointed on casual basis or against a regular vacancy. Once the two individuals were appointed as casual labourers, their entitlement under the scheme of compassionate appointment stood fulfilled. And, there is no justification in the applicant not being considered for regular appointment in preference to the compassionate appointment cases.

7 Counsel for the respondents submitted that the scheme of compassionate appointment being only against direct recruitment post and casual labour not being a post, the first appointment on compassionate grounds is the net maker. As such, the applicant cannot compare his case with that of compassionate appointment.

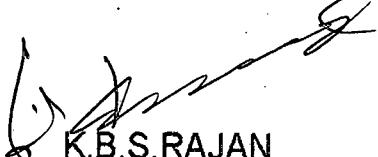
8 Arguments were heard and documents perused. The respondents are fully right in their contention that compassionate appointment is only against direct recruitment posts. That the individuals prior to such compassionate appointment are engaged as casual labourers is meant to tide over temporarily their financial crisis which occurred due to the sudden demise of their bread winner. There is no link between the initial engagement as casual labour and later appointment under Compassionate appointment scheme. As such, the applicant has no case to contend that the two who have been granted compassionate appointment were granted regular post overlooking the claim of the

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applicant who is senior as casual labourer.

9 The OA lacks in merit and is therefore, dismissed. No cost.


K. NOORJEHAN
ADMINISTRATIVE MEMBER


K.B.S. RAJAN
JUDICIAL MEMBER

ABP