

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A. No. 545 of 1995

Wednesday this the 9th day of October 1996.

CORAM:

HON'BLE MR. P.V. VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER

K.J. Suresh,
Lower Division Clerk,
Command Works Office,
Headquarters Southern Naval Command,
Kochi-4.

.. Applicant

(By Advocate Shri M.R. Rajendran Nair)

Vs.

1. The Flag Officer Commanding
in Chief, Head Quarters,
Southern Naval Command, Cochin.

2. The Chief of Naval Staff,
Naval Head Quarters, New Delhi.

3. Union of India, represented by
Secretary to Government,
Ministry of Defence, New Delhi.

.. Respondents

(By Advocate Shri K.S. Bahuleyan for Shri TPM Ibrahim Khan,
SCGSC)

The application having been heard on 9th October 1996,
the Tribunal on the same day delivered the following:

O R D E R

P.V. VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

Applicant is working as Lower Division Clerk (LDC for short) in Head Quarters Southern Naval Command. By A3 order dated 7.6.93 applicant was absorbed/regularly appointed from 6.7.87 with consequential benefits. Thereafter, applicant applied for permission to appear in the Stenographers'/Upper Division Clerk's test. His application was rejected by

the impugned order A5 on the ground that he had not completed five years of regular service in the grade of LOCs. Applicant contends that since he is deemed to have been regularised with effect from 6.7.87, he has the service of five years required to make him eligible for appearing for the examination. Respondents rely on a Full Bench decision (R1 A) in O.A. 967/90 and connected cases. That related to the question of seniority to be given to casual employees regularised in accordance with the Ministry of Defence letter dated 24.11.67. That decision cannot be read to mean that only service relatable to the date of fixation of seniority is to be treated as regular service.

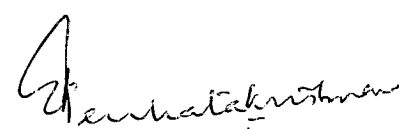
2. The facts which are not disputed here show that applicant was regularised on 6.7.87. Once the regularisation has been done the service rendered by him after that date is to be treated as qualifying service for the purposes of determining eligibility for appearing in the departmental examination. In this view A5 cannot be sustained.

3. A5 is quashed and we declare that applicant is entitled to count the period of service from 6.7.87 as qualifying service for the purpose of determining eligibility to appear in the departmental examination.

4. Application is allowed. No costs.

Wednesday this the 9th day of October 1996.


A.M. SIVADAS
JUDICIAL MEMBER


P.V. VENKATAKRISHNAN
ADMINISTRATIVE MEMBER

List of Annexures

1. Annexure A-3:- True copy of the order No.CS 3002/44 dated 7.6.1993 issued by 1st respondent to the applicant.
2. Annexure A-5:- True copy of the order No.CS 3526/44 dated 20.7.1994 issued by Staff Officer (Civilians) Head Quarters, Southern Naval Command, Cochin-4 to the applicant.
3. Annexure R-1(A):- True copy of the Order dated 1.7.94 passed by this Honourable Tribunal in OA.Nos.967/90, 973/90, 30/91, 383/91, 572/91 & 1579/91.