

CENTRAL ADMINISTRATIVE TRIBUNAL ERNAKULAM BENCH

ORIGINAL APPLICATION NO. 556/2013

Wednesday this the 23rd day of March, 2016

CORAM

*Hon'ble Mr. Justice N.K.Balakrishnan, Judicial Member
Hon'ble Mrs. P. Gopinath, Administrative Member*

Vijayarajan D aged 46 years
S/o late Divakaran,
residing at Vattavilathekkethil,
Peringanadu PO, Adoor,
Pathanamthitta District -691523
presently working as Civilian Switch Board Operator
(CSB) Grade I (Defence)
No.14272902 Station Headquarters,
Pangodu, Thiruvananthapuram 6, Kerala.

...Applicant

(By Advocate Mr. K. K. Sethukumar)

Versus

1. Union of India, through Secretary, Ministry of Defence, South Block, New Delhi-11.
2. The Director General, Dte.Sig 4(C)\ G.S Branch, Army Headquarters, IHQ of MOD (Army). DHQ PO, New Delhi-110 011.
3. The Chief Record Officer, Signal Recors, PB No.05, Jabalpur M.P 482002.
4. The General Officer Commanding in Chief HQ Southern Command, Pune.1.
5. The General Officer Commanding in Chief HQ Kerala & Karnataka Sub Area, Cubbon Road, Bangalore.
6. The Station Staff Officer, Station Headquarters

Pangodu, Thiruvananthapuram.695006.

7. The Controller General of Defence Accounts,
Ulan Batar Marg, Delhi Cantt. New Delhi.1.

.....**Respondents**

(By Advocate Mr. N. Anilkumar, Senior Panel Central Govt. Counsel)

This application having been finally heard on 14.3.2016 the Tribunal on 23.3.2016 delivered the following:

ORDER

Per: Justice N.K.Balakrishnan, Judicial Member

The applicant has approached this Tribunal complaining of non-granting of Time Bound Promotion after completion of 16 years service on 30.6.2011. He was initially appointed as Civilian Switch Board Operator in the Military Telephone Exchange at Gangtok against temporary post w.e.f. 1.7.1985 vide Annexure A1. Though the initial appointment was for three months, his service was subsequently regularized on 13.2.1993, based on Annexure A2 passed by the Calcutta Bench of this Tribunal in OA 187/1991. The intermittent period of break was regularized by adjusting it towards leave. The applicant is entitled to get the first financial up gradation under the Time Bound Promotion Scheme w.e.f. 30.6.2001. Other persons who approached the Tribunal were granted the said benefit. The applicant submitted Annexure A5 representation but it was rejected as per Annexure A8 order. Hence the applicant has approached this Tribunal

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for grant of Time Bound Promotion.

2. The respondents resisted the application. The fact that the applicant was subsequently appointed against the vacancy and he was absorbed is not disputed. It is also not disputed that a direction was issued by the Calcutta Bench of this Tribunal, to consider the absorption of applicant and others in service and pursuant thereto the applicant was absorbed in service. It is contended that there was a direction issued by the Tribunal that the applicant should be paid pay and allowances at the minimum of the scale in terms of appointment letter, without increment. It is admitted that the applicant is eligible for time bound higher grade on completion of 16 years of service; but only w.e.f. 2009. The claim made by the applicant that he is eligible for time bound higher grade w.e.f. 1.7.2001 reckoning the period of service w.e.f. 1.7.1985 is denied. The applicant completed his 16 years of service only in 2009. Thus the respondents denied the claim made by the applicant.

3. A rejoinder was filed refuting the averments made in the reply statement.

4. The point for consideration is whether the applicant is entitled to get time bound grade promotion w.e.f. 1.7.2001?

5. We have heard the learned counsel for the parties and have

gone through the pleadings and documents. The only point now in dispute is whether the applicant's service should be reckoned from 1.7.1985 or only w.e.f. 13.12.1993? Annexure A3 would show that the services of the applicant was regularized w.e.f. 13.12.1993. Thus according to the respondents, 16 years has to be computed from 13.12.1993 and not from 1.7.1985. In other words, the respondents wanted to contend that the previous service rendered by the applicant has to be ignored.

6. It was pointed out that though there were intermittent breaks those breaks were condoned by adjusting the period towards leave and in fact the entire service was regularized. That could not be properly controverted by the respondents. That apart the copies of the orders passed by the Tribunal in respect of persons similarly circumstanced, OA 1113/2008 of CAT, Calcutta Bench, OA 244/2008 and other cases of CAT, Guwahati Bench have been referred to by the learned counsel for the applicant in support of his submission that in all these cases the previous service rendered by the employees were reckoned. It is also seen that similar orders were passed by this Tribunal (Ernakulam Bench) in OA Nos. 596/2009, 597/2009 and 598/2009. Since the period of break in this case was already condoned by adjusting the same towards leave, the contentions to the contrary advanced by the

respondents cannot be sustained.

7. It is pointed out by the learned counsel for the respondents that though according to the applicant, he was entitled to get the benefit of the time bound promotion scheme w.e.f. 1.7.2001, this application has been filed only in the year 2013 and so that also has to be taken into consideration. Since it is a recurring cause of action, the application cannot be said to be barred by limitation. But however, the claim for arrears of pay and allowances has to be limited to three years immediately prior to the filing of the OA.

8. Since that was the only objection raised by the respondents, the applicant must succeed in this original application. Therefore, we are inclined to allow this application.

9. The OA is allowed. The respondents are directed to grant financial up gradation to the applicant under the time bound promotion scheme w.e.f 1.7.2001. He is also entitled to get the consequential benefits. But the payment of arrears shall be limited to a period of three years immediately prior to the filing of the OA. No order as to costs.


(Mrs. P. Gopinath)
Administrative Member

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(N. K. Balakrishnan)
Judicial Member