

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No. 557 of 2012

Wednesday, this the 06th day of March, 2013

CORAM:

**HON'BLE Mr. JUSTICE P.R. RAMAN, JUDICIAL MEMBER
HON'BLE Mr. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

1. K.V. Vyasan, S/o. K. Velu,
Unskilled Labourer,
INS Garuda, Naval Base,
Kochi – 682 004. Residing at
Kalapurakkal House, Nettoor (P.O) – 682 040.
Ernakulam District.
2. V.K. Balan, S/o. Kunjunny,
Unskilled Labourer, INS Garuda,
Naval Base, Kochi – 682 004.
Residing at Valachuvadukombu House,
Edakochi (P.O), Kochi – 682 006,
Ernakulam District.
3. V.S. Udayakumar, S/o. Sreenivasan,
Unskilled Labourer, INS Garuda,
Naval Base, Kochi – 682 004.
Residing at Valiyaveettil House,
Thekkemalipuram, Azheekkal (P.O),
Kochi – 682 510, Ernakulam District.
4. P.N. Murali, S/o. Narayanan P.R,
Unskilled Labourer, INS Garuda,
Naval Base, Kochi – 682 004.
Residing at Puthenpurakkal House,
Thekkemalipuram, Azheekkal (P.O),
Ernakulam District – 682 510.
5. P.M. Manoharan, S/o. P.K. Madhavan,
Unskilled Labourer, INS Garuda,
Naval Base, Kochi – 682 004.
Residing at Puthuvalsthalath House,
Thekkemalipuram, Azheekkal (P.O),
Ernakulam District – 682 510.
6. K.S. Mani, D/o. Sankaran K.K.,
Safaiwala, INS Venduruthy,
Naval Base, Kochi – 682 004.
Residing at Kattachalil House,
Elankunnappuzha (P.O) – 682 503,
Ernakulam District..

7. A.V. Radha, D/o. Velayudhan,
Safaiwala, INS Venduruthy,
Naval Nase, Kochi – 682 004.
Residing at Ammaparambil House,
Elankunnappuzha (P.O) – 682 503,
Ernakulam District.
8. K.V. Manikkan, S/o. K. Velu,
Unskilled Labourer, INS Venduruthy,
Naval Base, Kochi – 682 004.
Residing at Kalapurakkal House,
Nettoor (P.O) – 682 040.
Ernakulam District.
9. K.V. Balakrishnan, S/o. K. Velu,
Peon, INS Garuda, Naval Base,
Kochi – 682 004. Residing at
Kalapurakkal House, Nettoor (P.O) – 682 040,
Ernakulam District.
10. P.A. Mohanan, S/o. Arjunan,
Peon, Station Health Organisation,
Southern Naval Command, Naval Base,
Kochi – 682 004. Residing at
Punnakkathara House,
Kandakadavu (P.O) – 682 008,
Ernakulam District.
11. M.S. Aravindan, S/o. M.S. Sanku,
Watchman, INS Venduruthy,
Naval Base, Kochi – 682 004.
Residing at Manezhath House,
Edakochi (P.O), Kochi – 682 006,
Ernakulam District.
12. P.L. Prakasan, S/o. Lakshmanan,
Mali, INS Dronacharya, Veli,
Fort Kochi, Kochi – 682 001.
Residing at Puthenveettil House,
Thekkemalipuram (P.O) – 682 510.
Ernakulam District.
13. K.K. Sajeevan, S/o. Kesavan,
Unskilled Labourer, INS Venduruthy,
Naval Base, Kochi – 682 004.
Residing at Kalarikkalathara House,
Appangad East, Njarakkal – 682 505,
Ernakulam District.
14. K.K. Prasad, S/o. K.K. Keeran,
Unskilled Labourer, INS Garuda,
Naval Base, Kochi – 682 004,
Residing at Koluthara House,
Nayarambalam, Thenkathara,
Ernakulam District.

15. C.V. Venugopalan, S/o. C.K. Velayudhan,
Unskilled Labourer, INS Garuda,
Naval Base, Kochi – 682 004.
Residing at Chirattapurackal,
Vachakal, Edavanakad (P.O) – 682 502.
Ernakulam District.
16. V.V. Bhasi, S/o. Vallon,
Pest Control Workers, Station Health Organisation,
Southern Naval Command,
Naval Base, Kochi – 682 004.
Residing at Vadathara House,
Tonipalam, Puthuvype (P.O) – 682 502,
Ernakulam District.
17. K.K. Shaji, S/o. K.K. Kumaran,
Safaiwala, INS Garuda, Naval Base,
Kochi – 682 004, Residing at
Karikkappillithara House, East Appangad,
Narakkal (P.O) – 682 505,
Ernakulam District.
18. T.K. Abhilakshan, S/o. T.A. Kochal,
Unskilled Labourer, INS Venduruthy,
Naval Base, Kochi – 682 004.
Residing at Thittayil House,
Valiyavattom, Narakkal (P.O) – 682 505,
Ernakulam District.
19. T.K. Salim, S/o. Kandari,
Watchman, INS Sanjeevani,
Naval Base, Kochi – 682 004.
Residing at Thundiparambil,
Manjanakkad, Njarakkal (P.O) – 682 505.
Ernakulam District.
20. C.A Balasubramanian, S/o. Achuthan,
Safaiwala, INS Venduruthy,
Naval Base, Kochi – 682 004.
Residing at Choothamparambil,
Panambukad, Vallarpadam (P.O) – 682 031.
Ernakulam District. Applicants

(By Advocate Mr. Ashok B. Shenoy)

versus

1. Union of India represented by the Secretary to
Government, Ministry of Defence, South Block,
New Delhi – 110 001.
2. The Flag Officer Commanding-in-Chief,
Southern Naval Command,
Headquarters, Naval Base, Kochi – 682 004. Respondents

(By Advocate Mr. Sunil Jacob Jose, SCGSC)

This application having been heard on 25.02.2013, the Tribunal on 06/03/13 delivered the following:

ORDER

HON'BLE Mr. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER

The applicants are regular Group-D employees in the category of unskilled labourers in the Southern Naval Command at Kochi under the 2nd respondent. Initially they were engaged as casual labourers, later they were conferred with temporary status and regularised in service in terms of the provisions of the Casual Labourers (Grant of Temporary Status and Regularization) Scheme, 1993. Pursuant to the order dated 24.07.2007 of this Tribunal in O.A. No. 34/2007, as confirmed by the judgment of Hon'ble High Court of Kerala dated 11.02.2008 in WP(C) No. 37367 of 2007, on regularization, their pay was fixed in the minimum of the pay scales, without counting the increments that accrued to them since the conferment of temporary status. The Department of personnel & Training (DOPT) vide O.M dated 09.05.2008 directed to count the increments earned by the casual labourers with temporary status on the regularization of their service for the purpose of fixation of their pay. Further, the applicants are entitled to fixation of their pay in terms of O.M. dated 23.01.2012 (Annexure A-11) of the DOPT. As their representations were of no avail, the applicants have filed this O.A for the following reliefs:

"(a) Declare the applicants as conferred with Temporary Status under the respondents, with effect from 19.03.2002, in terms of Annexure A-6 order; and to be entitled to re-fixation of their pay from the date of their regularization, accordingly, with arrears and all benefits;

(b) Declare the applicants to be entitled to re-fixation of pay

from the date of their regularization, by counting and reckoning the increments accrued to them since the date of conferment of temporary status to them, with arrears and all benefits;

(c) Declare the applicants to be entitled to have their pay fixed in the revised Group 'D' pay scales in Pay Band I with Grade Pay of Rs. 1800/- with effect from 01.01.2006 in terms of Annexure A-11 Office Memorandum, with arrears and all benefits;

(d) Direct the respondents to re-fix the applicants' pay from the date of their regularization, reckoning the applicants to have been conferred with Temporary Status with effect from 19.03.2002 as also by counting and reckoning the increments accrued to them since the date of conferment of temporary status to them, and pay them arrears as also all benefits thereunder;

(e) Direct the respondents to fix the applicants' pay with effect from 01.01.2006 in the revised Group 'D' pay scales in Pay Band I with Grade pay of Rs. 1800/-, in terms of Annexure A-11 Office Memorandum, and pay them arrears as also all benefits thereunder; and

(f) Grant such other and further reliefs as are deemed just and necessary in the facts and circumstances of the case including costs of this proceedings."

2. The applicants contended that in terms of Annexure A-6 order of this Tribunal dated 24.07.2007 in O.A. No. 34/2007, they should have been conferred with the temporary status with effect from 19.03.2002, the date on which their immediate superior was conferred with the same. The denial of the same to the applicants and conferment of temporary status to them from the year 2006 onwards is illegal and arbitrary. In the light of Annexure A-10 Office Memorandum dated 09.05.2008, the respondents are bound to fix the pay of the applicants counting the increments accrued to them from the date they acquired temporary status. So also, non fixation of their pay in the revised Group-D pay scales in Pay Band PB-1 with Grade Pay of Rs. 1800/- as per Annexure A-11 order dated 23.01.2012 of the Government of India is

arbitrary and illegal, especially when the 2nd respondent has already imparted due training to all the applicants.

3. Despite repeated adjournments, the respondents have not filed their reply. The parties were heard and available records were perused.

4. The O.A. No. 34/2007 was allowed by this Tribunal vide order dated 24.07.2007 granting the applicants temporary status notionally from the date the immediate seniors to the applicants were granted the temporary status. The said order was confirmed by the judgement of the Hon'ble High Court of Kerala dated 11.02.2008 in WP(C) No. 37367 of 2007. There is no reason why the applicants were not granted the temporary status notionally with effect from the date on which their immediate seniors were conferred with the temporary status.

5. As per O.M dated 09.05.2008, the pay of casual workers with temporary status on their regularization against Group-D posts in identical grades is to be fixed after taking into account the increments already earned by them in Group-D pay scale which was taken into account for payment of wages while working as casual worker with temporary status. Arrears of pay as admissible were also to be paid to them.

6. As per O.M. dated 23.01.2012, the wages of casual labourers, who were granted the temporary status in terms of the provisions of the Casual Labourers (Grant of Temporary Status and Regularization) Scheme, 1993 and were in receipt of wages based on the pre-revised S-1 scale as on 01.01.2006

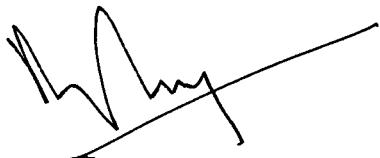
are to be worked out and paid on the basis of the Pay Band-1 with Grade Pay of Rs. 1800/- with effect from 01.01.2006. This benefit is granted to non-matriculate temporary status casual labourers also after imparting the requisite training. The 2nd respondent has already imparted the requisite training to the applicants.

7. In view of the above, the respondents are bound to fix the pay of the applicants reckoning the increments accrued to them since the date of conferment of temporary status notionally to them as per the order of this Tribunal in O.A. 34/2007 and also to fix their pay with effect from 01.01.2006 in the revised Pay Band-1 with Grade Pay of Rs. 1800/- in terms of O.M. dated 23.01.2012 of the DOPT. It is ordered accordingly. However, the applicants will not be given arrears of pay. Appropriate orders in this regard will be issued within a period of 03 months from the date of receipt of a copy of this order.

(Dated, the 06th March, 2013)



K.GEORGE JOSEPH
ADMINISTRATIVE MEMBER



JUSTICE P.R. RAMAN
JUDICIAL MEMBER

cvr.