

CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O.A.No.561/98

Wednesday this the 24th day of June, 1998.

CORAM:

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN

HON'BLE SHRI S.K.GHOSAL, ADMINISTRATIVE MEMBER

K.Sainul Abid,
Poultry Boy,
Animal Husbandry Unit, Androth Island,
Union Territory of Lakshadweep.

..Applicant

(By Advocate Mr. Shafik M.A.)

vs.

1. Union of India, represented by
the Administrator, Union Territory of Lakshadweep,
Kavaratti.

2. Director of Animal Husbandry,
Union Territory of Lakshadweep,
Kavaratti.

..Respondents

(By Advocate Mr.S.Radhakrishnan ,ACGSC (rep.)

The Application having been heard on 24.6.98, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN:

The applicant who commenced service as a Casual Labourer under the Animal Husbandry Department of the Union Territory of Lakshadweep on 28.12.76 was absorbed on a Group 'D' post as a Poultry Boy with effect from 28.2.88. His grievance is that he was being paid as wages an amount which is lower than the wages of a Group 'D' employee though he has been during his casual service performing similar duties of a Group 'D' employee. On the basis of the observations of the Hon'ble Supreme Court in its celebrated ruling in **Surinder Singh Vs. Engineer-in-Chief and others reported in 1986(1) SCC 639** the applicant strongly believes that he was entitled to receive 1/30th of the monthly wages of a regular Group 'D' employee for his casual service per day during the period when he was in casual service. When the applicant started

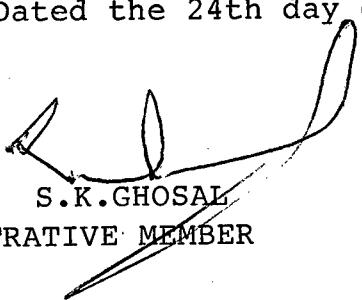
fostering such a feeling is not mentioned but it appears that he become wiser when he saw an order in favour of one of his counterparts in the same department Shri Kasmikoya for payment of 1/30th of wages of a Group 'D' employee for the period of casual service in O.A.37/90. The applicant states that he made several representations claiming the benefit, but without success. Therefore, he had approached the Tribunal with O.A.51/98 which was disposed of with the consent of the parties with a direction to the respondents to consider his representation and to give him an appropriate order in the light of the orders of the Tribunal in O.A.37/90. The second respondent has by the order dated 4.3.98 (A.1) pursuant to the orders of the Tribunal considered the claim of the applicant and turned it down on the ground that on 7.6.88 the applicant was not a casual labourer in the mutser rolls as he had been appointed on a regular basis with effect from 28.2.88 and therefore his case was not comparable to those casual labourers who were on the muster rolls on that date.

2. The applicant dissatisfied with the impugned order has filed this application seeking to have the impugned order set aside and for a declaration that the applicant is also entitled to get arrears of enhanced wages as has been granted to Shri K.Kasmikoya as per A4 order dated 20.7.92 and the refusal to grant the same is per se illegal, arbitrary and violative of Articles 14 and 16 of the Constitution of India and for a direction to the respondents to disburse the arrears of enhanced wages at the rate of 1/30th of the regular salary of a Group 'D' employee plus allowances from 30.12.86 to 28.2.88, with eighteen percent interest.

3. We have heard the learned counsel for the applicant as also the Standing Counsel appearing for the respondents. On a careful reading of the impugned order A.1 we do not find any infirmity in the decision. We find that the decision has been arrived at after careful consideration. The applicant who was a regular Group 'D' employee even before the O.M. dated 7.6.88 was issued by the Government of India did not become entitled to get any benefit on the basis of that O.M. as the O.M. did not direct payment to those who rendered casual service prior to 7.6.88 but stood regularised on the date of the O.M. The rulings of the Hon'ble Supreme Court in **Surinder Singh's case (supra)** and **Dhirendra Chamoli's case (1986 1) SCC 637** also did not direct the Government or the Public Sector Undertakings to pay to those casual labourers who had been paid during the past less than 1/30th of the pay of a Group 'D' employee per day. In these two rulings the Supreme Court held that it is inequitable for the Government to deny the casual labourers the same wages as that of regular Group 'D' employees when casual labourers were performing identical duties as regular employees. As rightly argued by the learned counsel for the applicant, there is a declaration in the judgment that equal pay should ^{be} given for equal work. If the applicant had become entitled to any benefit based on such a declaration, he should have laid his claim immediately thereafter and if his claim was not met by the respondents, the applicant should have sought appropriate relief then. He has not done so. For claiming difference in wages for the period prior to 28.2.88 the applicant has made the representation on 23.6.96 which has been turned down by the impugned order. If the applicant had made earlier representations in 1991 as stated by the counsel,

and if he had not received any favourable reply to that, he could have approached the Tribunal within a period of one year on the expiry of a period of six months from the date of representation. Even in the case of Kasmikoya, the relief granted was arrears of pay and allowances at the rate calculated at 1/30th of the monthly wages of a Group 'D' employee for a period of three years preceding the date of filing of his application. Since the applicant had already become a Group 'D' employee about ten years prior to the date of filing of even O.A.51/98, a similar dispensation in the case of the applicant would not give him any benefit. On a careful consideration of the matter in its entirety, we do not find any grievance of the applicant to be redressed by this Tribunal. Therefore, the application is rejected under Section 19(3) of the Administrative Tribunals Act. There is no order as to costs.

Dated the 24th day of June, 1998.


S.K.GHOSAL
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

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LIST OF ANNEXURES

1. Annexure A1 : Order No.1/2/98-AH dated 4.3.1998
of the second respondent.
2. Annexure A4 : Sanction Order No.4/42/88-AH
dated 20.7.1992 of the first
respondent.

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