

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. 581/92

Tuesday, the Eighth day of March, 1994

MR. N. DHARMADAN (J)

MR. S. KASIPANDIAN (A)

1. K. Saraswathy
w/o Shri Rathinam Chettiar
R/o Vilayil Veedu, Karamana
Thiruvananthapuram
2. T. Amrithamma, w/o Shri Sundaram
Chettiar, Rajesh Bhavan, Peyadu P.O.
Vilappil, Thiruvananthapuram
3. B. Lalitha, d/o Shri A. Ponnappan
Thottadivila Veedu, Theliabhagom
Aramada P.O., Thirumala
Thiruvananthapuram
4. R.K. Sreekantan Nair
S/o Shri V. Kunjan Pillai
Sivalayam, Devipuram,
Powdikonam P.O., Thiruvananthapuram

Applicants

By Advocate B. Raghunathan

vs.

1. Union of India represented by the
Secretary to Government, Ministry of
Defence, New Delhi
2. Commanding Officer (Wing Commander)
Headquarters, Southern Air Command
Indian Air Force, Thiruvananthapuram
3. Unit Warrant Officer, Headquarters
Southern Air Command, Indian Air Force
Thiruvananthapuram-695 003

Respondents

By Advocate Mr. C.N. Radhakrishnan, ACGSC (not present)

ORDER

N. DHARMADAN (J)

Applicants are casual employees working in the office of the second respondent. They are aggrieved by the denial of regularisation and grant of pay and adhoc bonus in accordance with the pay fixation order Annexure A-6 passed by the Commanding Officer and Annexure A-7 O&M issued by the Government.

2. The facts are not disputed except in regard to the nature of work. All the applicants except applicant No. 4 are Sweepers. The fourth applicant

according to the applicants, is working as Carpenter. But the respondents submitted that he is working as a Safaiwala. Applicants 1 to 3 were appointed as Sweepers on daily wages w.e.f. 10.7.84, 16.7.84 and 7.8.84 respectively. The fourth applicant was engaged as Carpenter on daily wages basis w.e.f. 6.4.87. Applicants have produced Annexure A-1 to A-5 and A-8 and A-9 certificates to establish their prior service. They relied on Annexure A-6 and A-7 proceedings and submitted that they are entitled to scale of pay as per Annexure A-6 and adhoc bonus as per Annexure A-7 O.M.

3. When the application was admitted, we passed an interim order directing respondents 2 to 3 to give work and wages to the applicants if work is available and uniors are engaged.

4. Respondents have admitted the service details of the applicants 1 to 3. But as regards the fourth applicant, the case of the respondents is that he has been employed as a Safaiwala. In terms of the interim order when the fourth respondent was offered job as Safaiwalla he did not accept the same.

5. In this case we are only dealing with the right of the applicants to get re-engagement considering their past service. Applicants 1 to 3 are continuing under the third respondent from 1985 onwards. The fact that these applicants are having past service in their credit is not disputed. Hence, considering their long services according to us, they are entitled to be appointed in group-D posts.

6. The fourth applicant is admittedly working from 1987 on daily wages. The only impediment in

considering him in group-D post according to the respondents, is that there are no provisions in the Air Force Regulations to appoint labourers engaged on daily wages against group-D posts. It is settled proposition of law that casual labourers who are working for long period having in their credit 240 days in a year, are eligible to be considered for regular employment even granting exemption or relaxations of the provisions of the rule in the interest of justice in case the same is found to be necessary. This Tribunal has already taken such a view in similar cases. Hence, having regard to the facts and circumstances of the case, we are of the view that applicants are entitled to regularisation in group-D posts considering their prior services in accordance with their seniority and turn.

7. Regarding the second prayer of the applicants we have perused Annexure A-6 order fixing nominal rate of pay for 1991-92. Applicants submitted that notwithstanding the fixation of pay in Annexure A-6 they are being paid even after April, 1991 only Rs. 26/- which is far below the rate shown in the fixation order Annexure A-6. Respondents have not given any satisfactory reason to reduce the rate of wages to the applicants. In so far as the fourth applicant is concerned, his case is that he is actually working as Carpenter and he is eligible to get his pay at the rate of Rs. 50/- per day. This is denied by the respondents. Accordingly, taking into account the rates fixed in Annexure A-6, we declare that the applicants are entitled to the wages as fixed in order No. 2/91 dated 27.6.91 Annexure A-6. But we make it clear that regarding the

fourth applicant, the respondents shall make the payment of his wages in consonance with his actual work which is being carried on by him. We also direct the respondents to pay the applicants the revised rate of pay from 1991-92 onwards and disburse the arrears as early as possible.

8. ^{a direction to grant} Applicants also pray for adhoc bonus equivalent to 29 days emoluments on the basis of O.M. No. 14(4)-E (Coord) /91 dated 10.10.91, Annexure A-7. Annexure A-7 O.M. is admittedly applicable to casual labourers who have worked for at least 240 days in each year for 3 years or more. The amount will be paid on a notional monthly wage of Rs.750/- These conditions are satisfied in this case. Hence, we are of the view that the applicants are also eligible for adhoc bonus as envisaged in Annexure A-7 O.M. dated 10.10.91. It goes without saying that the respondents are bound to pay applicants adhoc bonus from 1991-92 onwards subject to satisfaction of other relevant conditions.

9. The respondents shall comply with the above directions within three months from the date of receipt of a copy of this judgment. The interim order passed earlier is made absolute.

10. The application is thus allowed as indicated above.

11. There shall be no order as to costs.

S. Karpal

(S. KARPALIAN)
MEMBER (ADMINISTRATIVE)

N. Dharmadan
8.3.94

(N. DHARMADAN)
MEMBER (JUDICIAL)

8. 3 . 94

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