

CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O.A. No. 585 of 1997

Thursday this the 25th day of November, 1999.

CORAM:

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

HON'BLE MR. G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

1. P.A. Antony,
Junior Deck-Hand, CIFNET,
residing at Puthenveetil House,
Njarakkal, Cochin-5.
2. Dipak Kumar Mity,
Junior Deck-Hand, CIFNET,
residing at Maniyathi House,
Padnava Road, Cochin-13. Applicants

(By Advocate Shri M.C. Cherian)

Vs.

1. Director, CIFNET (Central
Institute of Fisheries,
Nautical & Engineering
Training), Dewans Road,
Cochin-16.
2. Union of India represented
by Secretary, Ministry of
Agriculture & CO-operation,
New Delhi. Respondents

(By Advocate Shri M.H.J. David J., ACGSC)

The application having been heard on 25th November 1999,
the Tribunal on the same day delivered the following:


O R D E R

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

Applicants seek to direct the respondents to pay ad
hoc bonus and arrears to them.

2. Applicants are working as Junior Deck Hands under the
respondents. They are on tenure posting. A1 is the order of
appointment of first applicant. The 2nd applicant was

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similarly appointed. As per A8 judgement, this Bench of the Tribunal directed to pay ad hoc bonus to tenure employees just like other employees. Respondents have denied the payment of ad hoc bonus to the applicants since 1996. The first applicant submitted a representation on 6.11.96 to the first respondent requesting to pay bonus. There is no response.

3. Respondents resist the OA. contending that the two main training courses conducted by the respondents are Mate Fishing Vessel course and Engine Driver Fishing Vessel course of 18 months duration. During the training period they are paid stipend of Rs.300/- per month. After the institutional training, they are posted in the approved Marine workshop and fishing vessels to acquire sufficient sea service/workshop service to appear for the appropriate Mercantile Marine Department Examination. Applicants are Ex-Mate Fishing Vessel Course trainees posted as Junior Deckhands in the scale of pay of Rs. 825-1200 with usual allowances on ad-hoc/tenure basis till acquiring sea service for the Mercantile Marine Department Examination. A bond has been executed by the trainees and there it is stipulated that they should work as Apprentice. Some ex-trainees were paid bonus erroneously. Apprentices are not covered under Bonus Scheme as per Annexure R-1. A8 judgement is confined to the applicant in that O.A. There is no provision for payment of ad hoc bonus to the applicants as they are only apprentices. Ad hoc bonus paid to the 2nd applicant during the financial year 1994-95 was a bonafide mistake. As per the bond executed by the applicants they are bound to work on par with other floating staff of the same category so as to acquire the sea/workshop service. It is the manner in which the quality of work is assessed in the Mercantile Marine Department before awarding competency certificate to handle the fishing

vessel operation independently. According to the Ministry's direction, 50% of the post of Junior Deckhands are reserved for Ex-Mate Fishing Vessel course trainees of the Institute and they are posted on tenure basis and relieved from the post immediately on acquiring the sea service. This is not an appointment on regular basis.

4. At the very outset it is pertinent to note that there is no document produced to show that the 2nd applicant was given any appointment on any nature under the respondents.

5. According to the applicants both of them are working as Junior Deckhands on a tenure appointment. According to the respondents, the applicants are only Apprentices and nothing more than that.

6. Annexure A3 dated 9.2.95 is the order appointing the first applicant. There it is stated that he is appointed as Junior Deckhands on tenure basis for a period of 15 months on board the CIFNET vessels on the terms and conditions stipulated in the reference first cited and the bond jointly executed by himself and his father. The terms and conditions stipulated are contained in A1.

7. The appointment of first applicant as per A3 is subject to the terms and conditions contained in A1. In A1, it is stated that the appointment is for fixed duration of 15 months in the first instance and thereafter, the period may be extended in spells of 3 months or till he becomes eligible for appearing at the appropriate Mercantile Marine Department Examination or the expiry of the sanction for continuance of the post whichever is earlier. Respondents have clearly stated that after the Institutional training, postings are made in the approved Marine workshop and fishing vessels to acquire sufficient sea service/workshop service to appear for

the appropriate Mercantile Marine Department Examination and as per the Ministry's direction, 50% of the posts of Junior Deckhands are reserved for Ex-mate Fishing Vessel course trainees of the CIFNET and they are posted on tenure basis and relieved from the post immediately on acquiring the sea service.

8. Learned counsel for the respondents submitted that applicants have left the CIFNET. Learned counsel appearing for the applicant when we asked submitted that he is not in a position to say whether the applicants are continuing in CIFNET or left the CIFNET. On a reading of A3 in the background of A1 the contention raised by the respondents in their reply statement that after the institutional training postings are made in the approved Marine workshop and fishing vessels to acquire sufficient sea service/workshop service to appear for the appropriate Mercantile Marine department Examination is only to be accepted especially in the light of the contention as per Ministry's direction, 50% of the posts of Junior Deckhands are reserved for Ex-mate Fishing vessel course trainees of the CIFNET and they are posted on tenure basis and relieved from the post immediately on acquiring the sea service. That being the position, the applicants are only to be treated as Apprentices/Trainees.

9. As per A8, the first respondent in that O.A. was directed to consider the claim of the applicant therein for ad hoc bonus in the light of observations contained there and Annexure A-9 and to pass orders in accordance with law. A8 order is the order of a Single Bench. A9 therein, it is submitted by the learned counsel for the applicants, is A-14 in this O.A. From A8, it is seen that in that O.A. the

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respondents raised the contention that the applicants therein orders of appointment issued to the applicants alone have been looked into.

10. Here we have to see not only the order of appointment but A1 also and the order of appointment is to be read and understood in the background of A1. That being the position, A8 cannot be followed in this case.

11. We have already found that as per A3 order of appointment of the first applicant read in the light of A1 he is only an Apprentice/Trainee. That being so, what is the position we will see. The applicants are pressing into service A-14 for the purpose of claiming ad hoc bonus. There is not even a syllable in A14 which says that an Apprentice/Trainee is entitled to ad hoc bonus.

12. Annexure R1 dated 12.6.87 says that :

It is further confirmed that there is no provision for payment of ad hoc bonus to the apprentices sponsored by CIFNET as they are not regular Central Government servants."

13. In the light of R-1, the applicants are not entitled to ad hoc bonus. R-1 is not under challenge. If the applicants claim that they are entitled to ad hoc allowance as apprentice they have to get R-1 quashed.

14. R.2 also says that apprentices/trainees posted against certain posts are not entitled to bonus. This is not under challenge.

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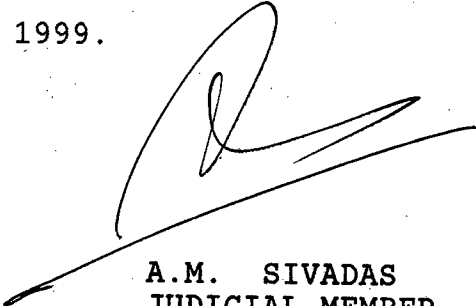


15. As the position of the applicants is that of Apprentices/Trainees for the reasons we have stated they are not entitled to get ad hoc bonus.

16. Accordingly, O.A. is dismissed. No costs.

Dated the 25th November 1999.


G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER


A.M. SIVADAS
JUDICIAL MEMBER

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List of Annexures referred to in the order:

- Annexure A1: True copy of Memorandum No.F-13-2/94-Admn. dated 17.11.94 issued by Sr. Administrative Officer, CIFNET, Cochin-16 in the office of Ist respondent to the first applicant.
2. Annexure A3: True copy of Office order No.13-2-/94-Admn. dated 9.2.95 of Sr. Administrative Officer, CIFNET, Cochin, to the Ist applicant.
- Annexure A8: True copy of judgement dated 21.10.93 of the Hon'ble Central Administrative Tribunal, Ernakulam Bench in O.A. 765/93.
- Annexure A9: True copy of representation dated 6.11.96 of Ist applicant to Ist respondent.
- Annexure A14: True copy of important orders such as GI.M.F.O.M. No. F-14(10)E (Co-ord)/88, dated 4.10.1988 and Annexure regarding Revised clarifications relating to Ad hoc Bonus Orders.
- Annexure R1: True copy of letter No. 19035 (1)/85-Fy (s) dated 12.6.1987 issued by the 2nd respondent.
- Annexure R2: True copy of the letter No. 3-21/93-Fy (Admn) dated 2/3-2/1994 issued by the 2nd respondent.