

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM

O. A. No. 588/89
~~Kxxxxxx~~

199

DATE OF DECISION 15-6-1990

C Chathukutty Applicant (s)

Mr MR Rajendran Nair Advocate for the Applicant (s)

Versus

Union of India and 2 others Respondent (s)

Mr TPM Ibrahimkhan Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. SP Mukerji, Vice Chairman

&

The Hon'ble Mr. AV Haridasan, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. To be circulated to all Benches of the Tribunal? *No*

JUDGEMENT

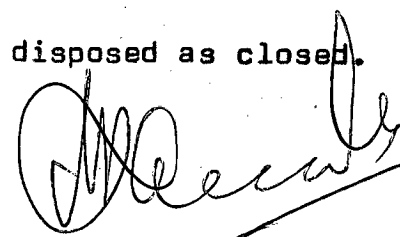
(Shri SP Mukerji, Vice Chairman)

In this application dated 5.10.1989 the applicant who has been working as Extra Departmental Branch Post Master, Mannamkavu.P.O. ^{has} approached this Tribunal apprehending his removal from the post and prayed that the respondents should be directed to retain him in service. The applicant has been working in place of one Smt.K Sobhana who had been put off duty. Now that she has been removed from the service, ^{the} learned counsel for the respondents fairly stated that the applicant will be continued and retain ^{ed} in service and ~~any~~ ^{no} ~~no~~ ^{is} ~~is~~ ^{is}

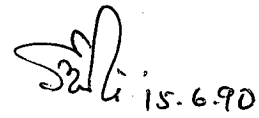
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order of termination of the service is under contemplation for the time being. In the circumstances, the learned counsel for the applicant does not press the application which is disposed as closed.



(AV HARIDASAN)
JUDICIAL MEMBER



(SP MUKERJI)
VICE CHAIRMAN

15-6-1990

trs

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, ADDITIONAL

BENCH MADRAS AT COCHIN

(Under Sec. 17 of the Administrative Tribunals Act, 1985
read with Section 12 of the Contempt of Courts Act, 1971)

Contempt Petition (Civil) No. ¹⁹ of 1989

SD K

588

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K.J.Rosy

: Petitioner

Vs:

Union of India and others

: Respondents

I N D E X

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Dated this the 19th day of June, 1989.

ADVOCATE

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM

(Under Section 17 of the Administrative Tribunals Act, 1985 read with section 12 of the contempt petition (Civil) No. ¹⁴ 189

OP k ^{1st} S88/08

1. Description of Petitioner

1. Name : Smt.K.J.Rosy
2. Designation : Lower Division Clerk
Naval Armament Depot,
Alwaye.
3. Place of residence : Pazhampillil veedu
Ochanthuruthum ~~Vaipu~~
Vypem

II. Description of Respondents

1. Name :
 1. ~~kms~~ not known
 2. Admiral Sri.Nadkarni
 3. Vice Admiral R.P.Sawhney
 4. P.K.Jain
 5. Y.P.Rao.
2. Designation :
 1. The Under Secretary,
Ministry of Defence,
New Delhi.
 2. The Chief of Naval Staff
Naval Head Quarters,
New Delhi.
 3. Flag Officer, ^o
Commanding-in-Chief,
Southern Naval Command,
Cochin.
 4. General Manager,
Naval Armament Depot,
Alwaye.
 5. Director General of
Armament Supply,
Naval Head Quarters,
New Delhi.

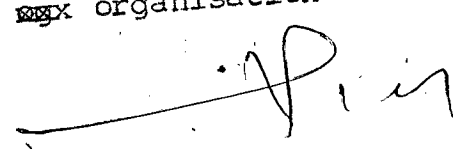
III. Nature of contempt alleged and material facts:

1. That this petitioner filed O.A.No.K.588/88 before this Hon'ble Tribunal. This Hon'ble Tribunal finally heard the Original Application and allowed the same by its order dated 8-12-88.

2. The petitioner is working as Lower Division Clerk in the Naval Armament Depot, Alwaye from 17-2-1975 in one of the nine regular vacancies recommended by the Naval standing Establishment Committee. She was regularised in service as L.D. Clerk only w.e.f 1-6-1979. The intermitant breaks of casual service of the petitioner in between 17-2-1975 and 1-6-1979 were made necessary by the respondents so as to enable them to evade regularisation of her service from the date of his initial appointment and not for any other reason.

By final order dated 14-5-'87 made in O.A.No.131/87 (marked as Annexure II in the original Application) the Hon'ble Central Administrative Tribunal, Hyderabad Bench, confirming the decisions rendered in T.A.No.511/86 of the same Bench, held that the applicants therein, who are similarly situated as that of this petitioner, prima-facie entitled to regularisation from the date of their initial appointment ignoring the break in their services. On the basis of the judgment in O.A 131/87 the applicants therein and many others were regularised and their technical breaks were regularised granting leave.

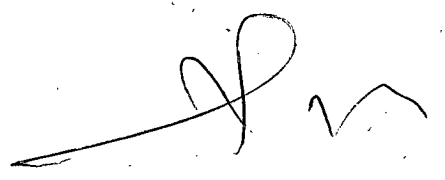
As the clerical staff working in various Naval Armament Depots are included in one seniority list maintained by the Director General of Armament Supply, Naval Head Quarters, New Delhi and all L.D Clerks belong to the common roaster of the ~~xxx~~ organisation



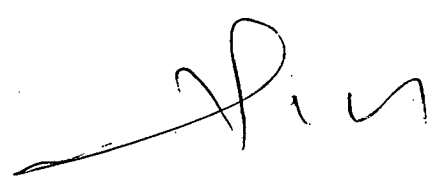
this petitioner was seriously adversely affected its implementation illegally and erroneously. Pointing out the anomalies this petitioner filed representation dated 12-4-88 before the respondents but in vain. Much aggrieved this petitioner filed O.A.No.K.588/88 before this Hon'ble Tribunal (i) issue a direction to the respondents commanding them to regularise the services of the applicant as L.D.Clerk with effect from 17.2.1975 and regularise the technical breaks by granting leave. (ii) issue directions to the respondents commanding them to grant and disburse forthwith the revised periodical increments and arrears thereof to the applicant's as regularised in service with effect from 17.2.1975. (iii) issue directions to the respondents to give the applicant her regular promotion revising the seniority list and all other benefits treating her as regularised in the service as L.D.Clerk with effect from 17.2.1975 (iv) Award costs of the applicant in this proceedings; And (v) Grant such other and further reliefs as may be prayed for. This Hon'ble Tribunal by its final order dated 8-12-1988 disposed of the case, the operative portion of which is as follows:-

"In view of the assurance given by the learned counsel for the respondents we dispose of this application with the direction to the respondents to dispose of the aforesaid representation of the applicant on the basis of the judgment of the Hyderabad Bench of the Tribunal mentioned above within a period of four months from today". A true copy of the final order made in O.A.No.K 588/88 is produced herewith as Annexure-A.

3. The respondents have received the copy of the final order immediately after the order was pronounced.

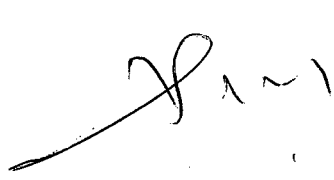


4. But the 3rd respondent has now communicated an order through the 5th respondent, true copies of which are produced herewith and marked as Annexures B & C. It is respectfully submitted that Annexures B & C amounts to contempt of this Hon'ble Tribunal's order. It is passed with the deliberate object of flouting the final order of this Hon'ble Tribunal. The respondents have regularised the casual services of 210 employees who were parties in W.A. No.239/80 and W.A 7269/81. They have also regularised the services of 27 chowkidars who were not parties to any case. These respondents were also regularised casual services of 319 employees of various establishments under Navy on the basis of the judgments of the Hon'ble Central Administrative Tribunal dated 14-5-1987 in O.A Nos. 402/86, 514/86, 127/87, 131/87, 230/87, 231/87, 247/87, 290/87, 303/87 and 266/87. The respondents have also regularised the casual services of a number of employees on the basis of similar judgments of the Hon'ble Central Administrative Tribunal, Hyderabad Bench. This is evident from Annexures III, IV and V produced in O.A.No.K 588/88. The casual services of juniors and seniors of this petitioner were regularised and were given all consequential benefits of fixation of pay, seniority and arrears from the date of their respective initial appointment. As a result much juniors of this petitioner has become seniors and are now eligible for promotion earlier than this petitioner. Some were given retrospective promotion as well. A true copy of one such order dated 3rd April 1989 is produced herewith and marked as Annexure-D.



5. As an example it may be seen that Smt.B.Parvathi, L.D.Clerk was 74 in the seniority list dated 7-8-86 whereas this petitioner was 61. Since she has been granted regularisation with effect from her initial casual appointment she is now 30 and this petitioner is 47. It is pertinent to note that Smt.B.Parvathi and others petitioner is in the common roster senior. This has happened due to the non-consideration and application of mind uniformly in all cases by the respondents. Since this petitioner has approached this Hon'ble Tribunal the respondents are adamant not to implement the final order in letter and spirit to the detriment of this petitioner. Petitioner approached the respondents requesting them to implement the final order dated 8-12-1988 in letter and spirit on the basis of the final order of the Hyderabad Bench mentioned earlier. Had the respondent any doubt about the admissibility of the final order dated 14-5-87, they would have very well preferred review or an appeal against the said order. Having lapsed more than 2 years since the judgment and having implemented the proposed review in Annexure B & C is only an eye-wash. It will be rather impossible to revert those who were given the benefits of the judgment without setting aside the final order dated 14-5-87. More than 556 employees were given the benefit of the judgment by fixation of pay giving arrears of pay and allowances, promotion from retrospective dates, seniority from the date of initial appointment. These benefits were denied to this petitioner alone.

5. The respondents have thus flouted the final order dated 8-12-1988 of this Hon'ble Tribunal



and thereby committed gross contempt (Civil) of this Hon'ble Tribunal and have rendered themselves liable to be punished for contempt of this Hon'ble Tribunal's order under Section 12 of the Contempt of Courts Act, 1971 read with Section 17 of the Central Administrative Tribunal's Act, 1985.

6. The respondents had sought extension of time of three months from 8-4-89 for complying with the final order. The time sought has already expired on 22-6-89 but till date nothing was done to comply with the order. They are with deliberate intentions, delaying the matter without any rhyme or reason.

7. No petition has been filed by the petitioner so far on the same facts for taking action against the respondents for having committed contempt (Civil) of this Hon'ble Tribunal.

V E R I F I C A T I O N

I, K.J.Rosy, aged 37 years, W/o. Ronals, Lower Division Clerk, Naval Armament Depot, Alwaye, do hereby verify that the contents from Page No.1 to 6 are true to my personal knowledge, and belief that I have not suppressed any material facts.

Place : Ernakulam

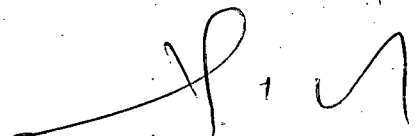
Date : 19-6-89.

To

The Central
Administrative Tribunal
M A D R A S

K.J.Rosy.


APPLICANT



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VSE

: Respondents

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ADVOCATE