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CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

Thursday this the 4th day of June, 1998.

O.A. No. 605/98

CORAM:

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

HON'BLE SHRI S.K.GHOSAL ADMINISTRATIVE MEMBER

N.G.Thomas,
Naduvillaveettil House,
Parayapillyparambu,
Kochi-682 006.

..Applicant

(By Advocate Mr. H.B.Shenoy (rep.))

vs.

1. Union of India represented
By the Secretary, Ministry of Agriculture,
Department of Agriculture & Co-operation,
New Delhi.

2. The Director,
Central Institute of Fisheries,
Nautical & Engineering Training,
Dewan's Road,
Kochi-682 016.

..Respondents

(By Advocate Mr. Varghese P.Thomas,ACGSC)

The Application having been heard on 4.6.98, 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 was first engaged as a Boat Building Carpenter at the Central Institute of Fisheries, Nautical & Engineering Training, Kochi on 10.7.67 continued in service as a casual worker till his services were terminated on 31.10.88. Aggrieved by the termination of his services the applicant filed O.A.74/89 before this Bench of the Tribunal claiming reinstatement in service with all consequential benefits. However when the said application came up for hearing before the Tribunal, the applicant limited his claim for getting the salary and other financial benefits as applicable to a regular Boat Building Carpenter for the period he

rendered service. The Tribunal in its order dated 28.2.90 being satisfied that the applicant was entitled to be paid at the same rate of regular employees atleast from 11.2.77 the date on which the A3 representation was made disposed of the application directing that the applicant should be paid the pay and allowances for the period from 11.2.77 till the date of his superannuation, the pay and other financial benefits as due to the regular employee treating him as a regular employee for that limited purpose. Though the respondents paid the balance of pay and allowances as also the gratuity, the applicant felt that he was entitled to pension also. Accordingly he moved the Assistant Labour Commissioner, Kochi for computation and payment of his pension and other retiral benefits. Though the Asst. Labour Commissioner attempted conciliation, it being not successful the conciliatory machinery issued an order directing the applicant to approach the appropriate legal forum under Section 33 C(2) of the Industrial Disputes Act for realisation of the dues which he claimed. However, the applicant has chosen to file this application for a direction to the respondents to pay to the applicant pension under the CCS(Pension) Rules with effect from 31.10.1988 with 18 percent interest for arrears till the date of payment and to continue to pay monthly pension to him. He has also claimed the arrears of bonus from the period 11.2.77 to 31.10.88. The applicant bases his claim on the order issued by the respondents on 4.6.90 paying him the arrears of wages for the period between 11.2.77 and 31.10.88 in which it was stated that the applicant had been treated as a regular Carpenter on a basic pay of Rs.260 plus allowances for the period from 11.2.77 to 31.10.88. The

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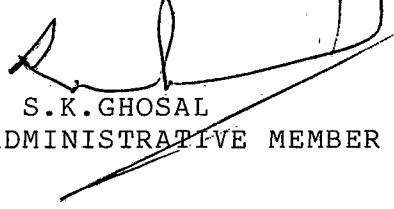
applicant's claim is that as he had even according to the orders of the respondents worked from 11.2.77 to 31.10.88 as a regular Carpenter, he is entitled to be paid pension in accordance with the provisions of the CCS(Pension)Rules.

2. On behalf of the respondents a reply statement has been filed opposing the admission and grant of reliefs. On admission the respondents contend that the claim is barred by limitation and on merits it is contended that the applicant is not entitled to any pension as he had never been a regular employee and as the Tribunal has in O.A.74/89 held that the right of the applicant was only for the pay and allowances and other monetary benefits on par with a regular employee treating him to be a regular employee for the limited purpose. The respondents therefore contend that the application is devoid of merit and the applicant is estopped from claiming any further relief.

3. On a perusal of the pleadings and on hearing the counsel on either side, we do not find any cause of action for the applicant to move the Tribunal by this O.A. In O.A.74/89 the Tribunal has considered the applicant's entitlement. The applicant himself voluntarily relinquished his claim on all counts other than the claim for pay and allowances and other monetary benefits. The Tribunal held that the applicant was entitled to be treated as a regular employee for the period from 11.2.77 to 31.10.88 only for the limited purpose of grant of pay and allowances. As the applicant on his own showing has never

been regularised in service, but remained as a casual labourer throughout, he is not entitled to claim any pension. This application which is devoid of any merit is dismissed in limine. No costs.

Dated the 4th June, 1998.


S.K.GHOSAL
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

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List of Annexures

1. Annexure-A3: Statement No.8-5/95 Adm dated 27.3.1997 issued by the 2nd respondent to the Assistant Labour Commissioner(Central) Ernakulam as well as the applicant.

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