

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.620/02

Tuesday this the 14th day of December 2004

C O R A M :

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

K.V.Kausalya,
W/o.late Sekharan,
Kalathipadom House,
Kizhavana Road, Kochi - 682 036.
last worked as Casual Processing Worker
under the 2nd respondent.

Applicant

(By Advocate Mr.K.Jagadeesh)

Versus

1. Union of India represented by
the Secretary, Ministry of Agriculture,
Department of Animal Husbandary & Dairying,
Krishi Bhavan, New Delhi.

2. The Director,
Integrated Fisheries Project, Kochi.

Respondents

(By Advocate Mr.T.P.M.Ibrahim Khan, SCGSC)

This application having been heard on 14th December 2004
the Tribunal on the same day delivered the following :

O R D E R


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

The grievance of the applicant retired Processing Worker is that she has not been given pension and other terminal benefits reckoning half the period of casual service rendered by her prior to her regular appointment in terms of Memorandum dated 14.5.1968.

2. The case of the applicant is as follows : The applicant was appointed under the 2nd respondent when it was known as Indo-Norwegian Project as a casual processing worker on 16.2.1966 through the Employment Exchange. The work performed by the applicant included cleaning of prawns, lobsters etc., icing, packing and storing which were of a regular nature. The

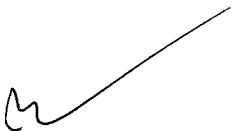
applicant was regularised as a processing worker in the year 1984. She retired from service on 30.4.1998. She was granted pension reckoning the period of regular service only. Along with similarly situated others, the applicant filed O.A.1252/00 before this Tribunal claiming the benefit of counting of half the period of casual service as qualifying service for pension. The said O.A. was disposed of directing the 2nd respondent to consider and pass appropriate orders on the individual representation. The applicant submitted representation. The representation was considered by the 2nd respondent and the impugned order Annexure A-1 dated 12.2.2001 was issued informing the applicant that considering the claim of the applicant in the light of the order passed by the Ministry of Agriculture, Department of Agriculture & Cooperation dated 27.9.1996 which was issued pursuant to the order of the Hon'ble C.A.T. in O.A.1773/93 filed by Smt.Appolini and that the applicant was given credit to 2 years, 8 months and 7 days of qualifying service and adjusting the amount due towards employer's share of EP Fund the terminal benefits of the applicant was revised and that the applicant is not entitled to anything more. Aggrieved by the order the applicant has filed this application praying that the impugned order be set aside and the respondents be directed to grant the benefit of the official memorandum dated 14.5.1968 and count 50% of the casual service put in by the applicant for the purpose of her pension and revise the pension accordingly.

3. The respondents in their reply statement contend that the O.A. is not maintainable because O.A.1059/01 filed by the applicant along with others was dismissed, that in terms of the




order dated 27.9.1996 issued pursuant to the order of the Tribunal in O.A.1773/93 filed by Smt.Appolini a formula was evolved for reckoning the casual service, that the applicant's case was considered accordingly and she has been granted the benefit of 2 years, 8 months and 7 days of qualifying service the respondents contend that the applicant has no subsisting grievance. It is also contended that the O.A. is barred by limitation.

4. I have gone through the entire material on record and have heard the learned counsel. First we deal with the plea of limitation. The applicant is challenging the order dated 12.2.2001 (Annexure A-1). The application has been filed by the applicant on 27.8.2002 and the M.A. for condonation of delay has been allowed. Therefore the delay having been condoned the O.A. cannot be said to be time barred. Coming to the merits of the case the respondents themselves have admitted in their reply statement that the applicant has rendered casual service during the period from 4/69 to 8/84 for a total number of 2960 days and that the applicant was entitled to have the casual service counted on the basis of the formula : $\text{Number of days actually worked as casual worker} \div 25 \times 2 = \text{month of service for pension}$. They also stated that the reckoning the casual service accordingly the applicant's terminal benefits have been revised giving credit to 2 years, 8 months and 7 days as qualifying service for pension. The entitlement of the applicant thus for reckoning the casual service for the purpose of pension in accordance with the formula mentioned in the impugned order is



admitted. However it is evident that the computation has been wrongly made. The length of casual service which is required to be counted as qualifying service for pension in terms of the above formula come to 59 months and not 2 years, 8 months and 7 days as stated in the impugned order because $2960 \div 25 \times 2$ worked out to 59 months which equals to 4 years and 11 months. The contention of the applicant that the applicant has worked for more period than 2960 days cannot be accepted as there is no evidence in that regard. However even according to the undisputed length of service of the applicant as casual labour in terms of the formula mentioned in the impugned order the applicant was entitled to have 4 years and 11 months as added as qualifying service for pension in addition to regular service on account of the casual service. The applicant has been given credit only for 2 years, 8 months and 7 days. Therefore the respondents are bound to revise the terminal benefits of the applicant giving her credit for 59 months of service for casual service instead of 2 years, 8 months and 7 days.

5. In the result the application is allowed in part the impugned order is set aside to the extent it worked out wrongly the length of qualifying service and direct the respondents to add to the regular service of the applicant a period of 4 years and 11 months also as qualifying service for pension on the basis of the formula mentioned in the impugned order for a total number of 2960 days, to revise pension and terminal benefit of the applicant accordingly and to make available the monetary benefits



as expeditiously as possible, at any rate, within a period of two months from the date of receipt of a copy of this order. No order as to costs.

(Dated the 14th day of December 2004)

A handwritten signature in black ink, appearing to read 'A.V. Haridasan', with a long horizontal stroke extending to the right.

A.V.HARIDASAN
VICE CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.620/2002.

Wednesday this the 31st day of December 2003.

CORAM:

HON'BLE MR.T.N.T.NAYAR, ADMINISTRATIVE MEMBER

K.V.Kausalya, W/o Late Sekharan,
Kalathipadom House,
Kizhavana Road, Kochi-682 036
last worked as Casual Processing Worker
under the 2nd respondent. Applicant

(By Advocate Shri.K.Jagadeesh)

Vs.

1. Union of India represented by the
Secretary, Ministry of Agriculture,
Department of Animal Husbandry &
Dairying, Krishi Bhavn, New Delhi.
2. The Director,
Integrated Fisheries Project,
Kochi. Respondents

(By Advocate Shri C.Rajendran, SCGSC)

The application having been heard on 31st December 2003,
the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR.T.N.T.NAYAR, ADMINISTRATIVE MEMBER

This Original Application has been filed praying for a
direction to the 2nd respondent to grant the benefit of counting
of 50% of the casual service put in by the applicant for the
purpose of her pension and to revise her pension accordingly.

2. In spite of the fact that the case has come up for hearing
several times, the applicant has not been present nor has she
been represented by anyone. The case came up for hearing on
27.10.03, 6.11.03, 19.11.03, 3.12.03, and 16.12.03 and the same
had to be adjourned mainly on account of lack of representation
on the part of the applicant. When the case came up for hearing

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on 16.12.03, it was observed that the applicant had not been represented on several previous occasions and that, however, in the interest of justice one last and final opportunity was being given to the applicant to present her case. Thus, the case was posted for hearing today and the applicant again has not been represented. In view of the above facts, I am convinced that the applicant is not interested in prosecuting the matter. Accordingly, the O.A. is dismissed. No costs.

Dated the 31st December, 2003.



T.N.T.NAYAR
ADMINISTRATIVE MEMBER