

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. 69/92

Date of decision: 17-8-1993

Balakrishnan

Applicant

Mr KS Madhusoodhanan

Advocate for applicant

Versus

1 Director, Central Marine
Fisheries Research Institute
(C.M.F.R.I), Dr Salim Ali Road
Cochin-31

2 Director General, Indian Council
of Agricultural Research
(I.C.A.R.), New Delhi.

Respondents

Mr P Jacob Varghese

Advocate for respondents

CORAM

Hon'ble Mr Justice Chettur Sankaran Nair, Vice Chairman
and

Hon'ble Mr R Rangarajan, Administrative Member

JUDGMENT

Chettur Sankaran Nair(J), Vice Chairman

Applicant seeks appropriate directions for reinstating him in service, under the first respondent. Ancillary reliefs are also sought. It is said that he had been working as a Deck-hand under the first respondent since 3.12.1987. Work was offered to him intermittently till 18.12.1991. For that reason he is entitled to the benefits under the Industrial Disputes Act, submits the applicant. He submits further that Annexure A6 was issued to him by the Kerala Public Service Commission calling him for interview for appointment, and that Annexure A6 did not reach him, as he was away at Sea,

in the service of respondents. He would also say that having spent four years under respondents, and crossed the maximum age of 25 for appointment under them, principle of equity also qualify him for consideration.

2 Respondents contest the claim on several grounds.

It is said that the Institute under the first respondent is not an Industry. This contention cannot stand, in the light of the decision in Bangalore Water Supply Vs. A Rajappa (AIR 1978-SC- 548). It is then submitted that applicant has not worked for the requisite number of days. This contention also cannot be accepted in the face of Annexures A3 to A5. Even Annexures RI and RII indicate that over a period of four years, applicant had been working under first respondent for considerable spells. The other contention that his juniors have not been employed, cannot stand scrutiny in the light of Annexures A12 and A13.

3 In the circumstance and in the state of law prevailing (OA 1027/91), we think the applicant is entitled to get a direction as prayed for. We direct respondents to grant work to applicant as and when work is available, in preference to those who have lesser service than him under the first respondent. It is also necessary to point out that the practice of taking different persons and making them work for different spells widening the cadre of casual employees, and diminishing chances of

employment available to those who had already been employed, would amount to an unfair practice.

4 With the aforesaid directions, application is disposed of. No costs.

Dated the 17th August, 1993.


R Rangarajan
Administrative Member


Chettur Sankaran Nair (J)
Vice Chairman

P/ 18-8

LIST OF ANNEXURES

1. Annexure A3 Copy of certificate dated 22.2.88
2. Annexure A4 Copy of certificate issued to applicant.
3. Annexure A5 Copy of Schedule showing the details of work of the preceding year of the applicant.
4. Annexure A6 Copy of Memo dated 28.1.89 of the K.P.S.C.
5. Annexure A12 Copy of Identification Certificate dated 6.4.88.
6. Annexure A13 Copy of letter dated 8.10.92 of the Officer of the CMFRI, Cochin issued to Security Officer.
7. Annexure RI Period of engagement of applicant as casual labourer on board RV Skipjack and Cadalmin-IX Vessels of CMFRI.
8. Annexure R II Period of engagement of applicant as casual labourer on board FORV Sagar Sampada.