

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.99/06

Tuesday this the 10th day of April, 2007

C O R A M :

**HON'BLE MRS. SATHI NAIR, VICE CHAIRMAN
HON'BLE DR. K.B.S. RAJAN, JUDICIAL MEMBER**

- 1 C.K.Ambika,W/o.C.V.Krishnan,
Kavalamparambil House,
Vellyandu P.O., Ernakulam District,
Working as Safaiwala, INS Venduruthy.
- 2 M.Santhakumari,W/o.Ramankutty Nair,
10/612, Thekkumuri,
Kallepully, Palakkad.
Working as Safaiwala, INS Venduruthy.
- 3 K.N.Rajan,S/o.Kumaran,
Kuttoor House, Kattappana P.O.,
Pexham Kavala, Idukki District.
Working as Safaiwala, INS Venduruthy.
- 4 V.T.Mohammed,S/o.Kunjupillai,
Vinppil House, Nochma. Aluva.
Working as Safaiwala, INS Venduruthy.
- 5 P.S.George,S/o.Varkey Skeria,
Plappillil House, Piramadam.
Working as Safaiwala, NAVAC Project,
Headquarters, Southern Naval Command.
- 6 M.V.Sumathy,W/o.K.K. Velayudhan,
Karippayil House, Kaloor.
- 7 C.Kunjammini, W/o. Kochunni,
Sreerengath House,PD Road,
Palluruthy, Kochi – 682 006.
Working as Safaiwala, INS Venduruthy.
- 8 P.K.Charubala,
W/o.Sreedharan,
Thandasseri parambil House, Thevara Colony.
Working as CMK, Venduruthy.

- 9 KM Parvathy,W/o.late Kumaran,
Thevara Ferry.
Working as Safaiwala, INS Venduruthy.
- 10 TK Ayyappan,
Puthuvelepadilan,
Cheriyathukkonam, N Kuthiyathoad.
Working as Safaiwala, INS Venduruthy.
- 11 PK Lakshmi,W/o.Kurumbanm,
Parayil House, Paingarapilly, Mulanthuruthy.
Working as Safaiwala, INS Venduruthy.
- 12 K Lekshmy,W/o.N Veluthakunju,
Madathil Villa House,
Chirakkara PO, Edavattom, Kollam.
Working as Safaiwala, INS Venduruthy.
- 13 P Madhusoodanan,S/o.Karunakaran Nair,
Paleeri House, Kadalundi PO,
Malappuram District.
Working as Safaiwala, INS Garuda.
- 14 N. Vijayama D/o S. Madhavan,Valavil Houe
Nedumbrakkadud, Cherthalai PO Alleppey
Working as Safaiwala, INS Garuda
- 15 C.J. Chandy S/o John
Chirayil House, Kochi
Working as Safaiwala, INS Gauda
- 16 K.V. Kurian S/o Varkey
Assanparambil MLA Road
Nadakkavu, Udayamperoor
Working as Safaiwala, INS Garuda
- 17 Santhamma Mathew W/o P.M. Mathews
Dawsom Vihar,Thyoodam
Vyttila PO
Working as Peon, Southern Naval Command
- 18 T.M. Sarojini W/o Sasidharan
Eravelil House
Kumbalam PO
Kochi-682 026
Working as Peon, Southern Naval Command

- 19 Komalam V.Nasir W/o S. Vijayakumaran Nair,
Vysakh,Vyttila PO, Ernakulam District
Working as Draughtsman Grade-II
INS Venduruthy
- 20 C.K. Damodaran S/o Karunakaran
Chalil House,Kochi
Working as Projectionist Grade-I
Southern Naval Command
- 21 K.K. Rajan S/o Krishnan
Kuttiyil House, Kochi
Working as Projectioninst grade-I
- 22 K.K. Preetha W/o Narayanan
Kodiyil House, Kochi
Southern Naval Command
Naval Base, Kochin-4
- 23 K. A. Santhosh S/o K.C. Anthappan
Kainikara House,Mylassery PO
Vathuruthy, Kochi-29
Working as Mali, INHS Sanjeevani
Naval Base, Kochin-4
- 24 K.A. Raveendran S/o Ayichan
Kongappalli House
Panangadu PO
Kochi-682 506
Working as Peon, INHS Sanjeevani,
Naval Base, Kochin-4
- 25 V.E.Joseph S/o V.H. Eassy
Villenasseri House
Udayampmeroor,Via Ernakulam Distt.
Working as a Leather Hornes Worker
INHS SanjeevaniNaval Base, Kochin-4
- 26 P.K. Vijayan S/o Achuthapanicker
Marika House, Malloossery
Marayathurathu PO Kottayam Distt.
Working as Dhobi, INHS Sanjeevani,
Naval Base,Kochin-4.
- 27 T.V. Girijan S/o T.V. Vasu
Thanalassery House
North Paravoor,Ernakulam
Working as Dhobi, INHS Sanjeevani,
Naval Base,Kochin-4.

28 T.K. Shanmughan S/o late Kuuppuswamy
Thekkilkadu House, Vynnethil PO, Thkripunithura,
Ernakulam District.
Working as Dhobi, INHS Sanjeevani,
Naval Base, Kochin-4.

29 P.E. Ashraf S/o M.K. Ebrahim
Puthuparambil House
Peruvanthalaaanam, Idukky Distt.
Working as Dhobi, INHS Sanjeevani,
Naval Base, Kochin-4.

30 T.C. George S/o T.V. Chummar
Thekkeveetil, Kunnakkal PO
Muvattupuzha, Ernakulam Distt.
Working as Dhobi, INHS Sanjeevani,
Naval Base, Kochin-4.

31 T.P. Krishnan S/o Subramanian
Cherukattil House, Onakkadu
Thannallor, Malappuram District
Working as Dhobi, INHS Sanjeevani,
Naval Base, Kochin-4.

32 T.K. Viswambaran S/o Karuppan, Thankattungal
Maradu PO, Ernakulam
Working as Dhobi, INHS Sanjeevani,
Naval Base, Kochin-4.

33 K.S. Krishnan S/o S. Sankaran
Karamoothedathu House
Thalayolaparambu PO
Kottayam Dist.
Working as Dhobi, INHS Sanjeevani,
Naval Base, Kochin-4.

34 M.K. Meenakshy W/o Kunjan,
Thundipurath House
Kuzhippilly, Ayyampilly PO
Cherail Ernakulam distt.
Working as Ward Sahayika, INHS Sanjeevani,
Naval Base, Kochin-4.

35 A.P. Narayani W/o late Pauincheeli
Asaripurathu House,
Pyaikarappalli Thuruthikkara PO
Mulanthuruthy, Ernakulam
Working as Safaiwala, INHS Sanjeevani,
Naval Base, Kochin-4.

36 Susamma Chacko W/o P.M. Babu,
Pambhumattathu, Malsyapuri, Vathuruthy
Working as Safaiwala, INHS Sanjeevani
Naval Base, Kochi-4

37 C.M.Sumathy W/o Maniyan, Chingacherry House
Kaitharam PO, North Paravoor
Working as Safaaiwala,INHS Sanjeevani
Naval Base, Kochin-4 ..Applicants

By Advocate Mr. V.V. Nandagopal Nambiar

Vs.

1 Union of India represented by the Secretary
Government of India, Ministry of Defence
New Delhi.

2 The Flag Officer Commanding-in-Chief
Southern Naval Command, Naval Base
Kochi-682 004

3 The Chief Staff Officer (Civilian Personal & Administration)
Southern Naval Command
Naval Base, Kochi-682 004.Respondents

By Advocate Mr.TPM Ibrahim Khan, SCGSC.

ORDER

HON'BLE MRS. SATHI NAIR, VICE CHAIRMAN

The thirty seven applicants in this O.A. are working in various establishments under the second respondent. They are aggrieved by denial of their request to count their services from the initial date of joining for the purpose of granting the benefit of placement in higher grade under the ACP Scheme. The applicants preferred representations which were rejected by the respondents by impugned orders Annexure A-1 and A-2. Similar replies were issued to other applicants as well. The other grounds relied on by



the applicants are that the impugned orders were issued without proper application of mind and on wrong understanding of the orders of the Government of India in implementing the ACP Scheme. It has been further averred that the respondents have no right to interpret the provision of the scheme to their liking despite the decision of the Hon'ble Supreme Court and the Tribunal reiterated in several judgments. Even persons who have been employed in Canteens and who were considered as departmental employees as per Hon'ble Supreme Court's order have been granted the benefit of the scheme reckoning their service from the date on which they have joined service. The following reliefs have been sought:

- (i) to call for the records relating to Annexures A1 and A2 and similar orders issued to applicants and to quash the same.
- (ii) to hold that the applicants are entitled to the benefit of the ACP Scheme of the government of India from the date of initial appointment and to direct the respondents to grant all consequential monetary benefits and to disburse the arrears if any with 18% penal interest.
- (iii) to pass such other orders which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case. AND
- (iv) to award the cost of the proceedings.

2 Per contra, the respondents have averred that the applicants were initially appointed on casual basis and subsequently they were absorbed against the regular vacancies on different dates. The applicants at Sl. No. 17, 18, 24 and 29 were converted to the posts of Peon/Watchman. The applicants at Sl. No. 16 and 32 were given appointment to the posts of Civilian Motor Driver and Barber

respectively which carry higher scale of pay. Later on, the casual services in respect of all the applicants had been regularised and consequential benefits given as per the Court/Government orders. Accordingly, applicants 1 to 6, 10, 11, 13, 14, 16, 17, 23, 24, 26 to 37 have been granted first financial upgradation under the ACP Scheme. The applicants No. 18 and 21 have been granted second financial upgradation only, as they were already given 1st upgradation. However, the applicant No. 15, 22 and 25 will be getting only second ACP as they were already granted first promotion. However, they admitted that all the promotions and financial upgradations have been granted only on the basis of their regular appointment from the date of absorption. It is also further submitted that the applicants appear to be similarly situated persons as the applicants in O.A. 755/2000 as the service rendered by them on casual service have been regularised. But the same benefits cannot be extended violating the extant Government orders.

3 We have heard Shri V. V. Nandagopal Nambiar for applicant and Ms Jisha for Shri TPM Ibrahim Khan, SCGSC appearing for the respondents.

4 When the matter came up for hearing the learned counsel for the applicants submitted that the applicants are similarly situated persons as the applicants in O.A. 755/2000 and are entitled for the benefits granted to the applicants in that O.A. and the same was

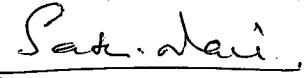
agreed to by the respondents as well. It is obvious from the details furnished by the respondents that several of the applicants have been granted first and second financial upgradation but the principle adopted for counting the regular service is only from the date of absorption. This is the only bone of contention raised by the applicants that they are entitled to reckon their regular service from the initial engagement, as their services were regularised retrospectively with effect from the date of initial engagement. The fact is that this issue is already covered by the orders of this Tribunal in O.A. 755/2000 which has since become final. The contention of the respondents that they cannot make applicable the order of this Tribunal to similarly placed persons is absolutely violative of all principles of natural justice. The respondents cannot deny similar benefits to the applicants who are all similarly placed persons as the applicants in O.A. 755/2000. Accordingly, following the decision in O.A. 755/2000, we declare that the applicants are entitled to the benefit of the judgment reckoning their regular service from the date of initial appointment on the basis of the orders regularising their casual service from the dates of initial engagement. The respondents shall re-examine the orders issued in the case of the applicants to whom they have already granted financial upgradation under the ACP Scheme on the basis of the above declaration and determine whether they have become eligible retrospectively and if so they shall be granted the benefit from the dates from which they became due. The case of those applicants who became eligible

prospectively shall also be determined on the basis of the above declaration. They shall also be entitled to consequential benefits and to payment of arrears. The respondents shall issue the orders, make the payments within a period of three months from the date of receipt of a copy of this order. No costs.

Dated 10.4.2007



DR. K. B. S. RAJAN
JUDICIAL MEMBER



SATHI NAIR
VICE CHAIRMAN

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