

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.104/2008

Dated the 18th day of July, 2008.

CORAM :

HON'BLE MR.GEORGE PARACKEN, JUDICIAL MEMBER

- 1 Suresh A.K.
Civilian Motor Driver (OG),
INS Garuda, Kochi-682 004.
- 2 P.A.Sasidharan,
Civilian Motor Driver (OG),
INS Venduruthy, Kochi-682 004.
- 3 K.N.Satheesan
Civilian Motor Driver (OG),
NAD, Aluva, Emakulam.
- 4 T.S.Joshi
Civilian Motor Driver (OG),
N.S.R.Y, Kochi-682 004.
- 5 E.K.Joy,
Auto Transport Fitter (HS),
Command Naval Transport Workshop
Kochi - 682 004

By Advocate Mr.E.M.Joseph

V/s.

- 1 Union of India
Represented by the Secretary,
Ministry of Defence,
New Delhi
 - 2 Flag Officer Commanding in Chief,
Southern Naval Command,
Kochi-682 004.
- ... Respondents

By Advocate Mr.TPM Ibrahim Khan SCGSC

This application having been heard on 18th July, 2008, the Tribunal on the same day delivered the following

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(ORDER)**Hon'ble Mr. George Paracken, Judicial Member**

This is the second round of litigation by the applicants before this Tribunal. They commenced their service as casual labourers and later on, they were regularised in service. Their claim is that they are entitled to be treated as regularly employed employees with effect from the date of their initial engagement as casual labourers itself on the basis of the (Annexure A-6) order dated 26.6.1995 which reads as under:-

" No.CP(SC)/4834/Court Case/NHQ/1329/
DO(P)/D(H-II)
Government of India,
Ministry of Defence,
New Delhi, the 26 June 1995.

The Chief of the Naval Staff,
New Delhi-(25 copies)

Subject:-IMPLEMENTATION OF JUDGMENT OF CAT, NEW
BOMBAY BENCH IN OA NO.306/88 AND 732/88
REGARDING REGULARISATION OF CASUAL SERVICE

Sir,

The undersigned is directed to refer to the judgment the Central Administrative Tribunal, New Bombay Bench, mentioned above and to say that these judgments regarding regularisation of service from the date of initial appointment on casual basis, were implemented in respect of petitioners only vide Government of India, Ministry of Defence letters No.CP(SC)/4-834/Court Case/NHQ/2309/D(N-II) dated 24th August 1994 and No.CP(SC)/4828/IV/Court Case/NHQ/3035/DO(P)/D(H-II)/94 dated 21 Nov, 1994. The question of extending the benefits of the above judgments of the CAT, New Bombay Bench to the non-petitioners, who are similarly placed has also been considered by the Government in accordance with CAT directive and it has been decided to implement the CAT, Bombay direction. The undersigned is therefore directed to convey the sanction of the President to the grant of benefits as extended to the petitioners in the above O.As to the other similarly placed non-petitioners working in Naval Establishments belonging to Groups 'C' and 'D' not exceeding 4313

employees (inclusive of those who have got such benefits by filing fresh petitions and implementation of the same by the Government after issue of letters mentioned above).

2 The expenditure incurred will be debitable to Major Head 2077, Minor Head 104(F) 3 Code Head of 621/03 of Defence Services during 1995-96 as 'Charged Expenditure'.

3 This issues with the concurrence of the Ministry of Defence (Fin/Navy) vide their u.o.No.700/NA of 1995.


Yours faithfully

Sd/
(MN SUKUMARAN)
Desk Officer "

2 Since the representations made to the respondents seeking the aforesaid benefit was not granted to them, they approached this Tribunal vide OA No.1073/2001 and the same was disposed of vide order dated 12.12.2001 with a direction to the respondents to consider their representations and to dispose of them by giving them appropriate reply. Respondents have, thereafter, issued the Annexure A-2 order dated 19.2.2002 stating that the benefits of the Annexure A-6 order could not be extended to them for the reason that the matter was pending before the Union of India as well as the Industrial Tribunal, Mumbai.

3 Meanwhile, another set of similarly placed employees have filed OA No.632/2002 before this Tribunal seeking similar relief and the same was allowed vide order dated 30.11.2004 and the operative part of the same is as under:-

"4 We are of the opinion that there is no justification for the Ministry in not granting the approval and the respondents not extending the benefits to the applicants who are identically situated in all respects like the personnel who were petitioners in an earlier decision as it was the duty of the administration to



extend the benefit to the similarly situated personnel without driving each one of them to court claiming the benefit. In paras 4(a) and (b) of the impugned order itself it has been admitted that in the case of those who are identically situated like applicants in obedience to direction from the Tribunal their services have been regularised w.e.f. the date of their initial engagement on casual basis condoning artificial breaks. It is worthwhile to reproduce paras 4(a) and (b) of the impugned order which reads:

4(a) Provisions envisaged in Government letter CP(SC)/4834/Court Case/NHQ/1375/DO(P)/D(N-11) dated 26 June, 1995 is extended to non-petitioners of non-industrial category only.

(b) Casual services of industrial personnel, who have approached the Hon'ble Tribunal and obtained specific directions from the Court have been referred to Naval Headquarters/Ministry of Defence wherein their casual service has been regularised after approval from Ministry of Defence in each case."

4 The contention of the applicant in this OA is that the Central Government Industrial Tribunal vide award dated 13.6.2006 (Annexure A-3) held that the benefit of Annexure A-6 letter dated 26.6.1995 is to be extended to "all workmen, who are similarly placed, from the date of their joining their services." They have, therefore, taken up the matter before the respondents once again vide Annexure A-4 representation dated 25.6.2007 but the respondents have neither disposed of their said representation nor extended the benefit of the award of the Industrial Tribunal to them.

5 Meanwhile, two other similarly placed employees of the first respondent filed the OA No 421/2006 -M.V.Mohanan & Anr. V/s. Union of India & Ors. before this Tribunal seeking a direction to the respondents to regularise the period of their casual labour service and to count the same for pensionary benefits with grant of consequential benefits in accordance

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with law. The aforesaid OA was allowed vide order dated 1.11.2006 following the order in OA 632/2002 (supra) and the operative part of the said order is reproduced as under:-

"7 It is seen from the reply statement that the respondents have implemented the above directions of this Tribunal. In fact, the averments of the respondents are contradictory in that in para 5 of the reply they concede that the applicants herein are similarly situated persons as that of various other OAs, but in para 8, they contend that in order to extend the benefit of regularisation, there has to be specific order either from the Court or the Government in each case. We find that the stand of the respondents is quite unreasonable and illegal. Their contention that Annexure A-5 is not relevant for the Industrial cadre of employees is also not borne out by the reading of the above circular which does not make any distinction between Industrial and non-industrial cadres. It is settled law that general benefits extended by Court judgments to a category of employees cannot be made applicable in a restricted manner to the applicant in these court cases alone. Such an action is contrary to the judgment of the Full Bench of the CAT Bangalore Bench in the case of C.S.Elias Ahmed and Ors Vs. UOI and Others and the same principle has been upheld by the Hon'ble Supreme Court in several other cases. The observations of the 5th CPC in para 126.5 reproduced below referring to the above position are also significant.

"Extending Judicial decisions in matters of a general nature to all similarly placed employees.

126.5 We have observed that frequently, in cases of service litigation involving many similarly placed employees, the benefit of judgment is only extended to those employees who had agitated the matter before the Tribunal/Court. This generates a lot of needless litigation. It also runs contrary to the judgment given by the Full Bench of Central Administrative Tribunal, Bangalore in the case of C.S.Elias Ahmed and Others Vs. UOI and Others (OA Nos.451 and 541 of 1991) wherein it was held that the entire class of employees who are similarly situated are required to be given the benefit of the decision whether or not they were parties to the original writ.


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Incidentally, this principle has been upheld by the Supreme Court in this case as well as in numerous other judgments like G.C.Ghosh Vs. UOI (1992) 19 ATC 94(SC) dated 20.7.1988, K.J.Shepherd Vs. UOI (JT 1987(S)SC 600) Abid Hussain Vs. UOI (JT 1987(1) SC 147) etc. Accordingly, we recommend that decisions taken in one specific case either by the judiciary or the Government should be applied to all other identical cases without forcing the other employees to approach the court of law for an identical remedy or relief. We clarify that this decision will apply only in cases where a principle or category of Government employees is concerned and not to matters relating to a specific grievance or anomaly of an individual employee."

8 In the light of the above discussions we are of the view that there is no justification for not extending the benefit granted in Annexure A-4 order of the Tribunal in OA 632/2002 to the applicants in this OA. The impugned order at Annexure A-3 is quashed and the respondents are directed to regularise the period of casual service of the applicants and count the same for pensionary benefits and other consequential benefits in accordance with law. The OA is allowed. No costs."

6 The only objection raised by the respondents in their reply is that the earlier decisions of this Tribunal cannot be treated as an authority for the present applicants for seeking same relief.

7 I have heard Advocate Mr.E.M.Joseph for the applicant and Advocate Ms Jisha for Mr.TPM Ibrahim Khan SCGSC for the respondents. I do not find any merit in the aforesaid objections of the respondents. Undisputedly, the applicants in this OA are similarly placed as the applicants in the OA Nos.632/2002 and 421/2006 decided on 30.11.2004 and 1.11.2006 respectively. The respondents are not justified in not extending the same benefit to applicants in this OA also as they are similarly placed particularly in view of their own Annexure A 6 letter dated 26.6.1995. The respondents need not have dragged the applicants to this



Court and on their own, they should have extended the benefits to them. I, therefore, allow this OA and direct the respondents to extend the benefits as ordered in OA-632/02 and OA 421/06 to the applicants in this OA also. The respondents shall regularise the period of casual labour service of the applicants with all consequential benefits in accordance with law. They shall also pass appropriate orders within three months from the date of receipt of copy of this order. There shall be no orders as to costs.


(GEORGE PARACKEN)
JUDICIAL MEMBER

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