

**CENTRAL ADMINISTRATIVE TRIBUNAL,**  
**ERNAKULAM BENCH**

**Original Application No. 110 of 2009**

**Friday, this the 1st day of January, 2010**

**CORAM:**

**Hon'ble Mr. George Paracken, Judicial Member**  
**Hon'ble Mr. K. George Joseph, Administrative Member**

K.A. Aravindan, aged 54 years,  
Son of Ayyappan, Store Keeper,  
Naval Air Craft Yard, Residing at  
Neelima, Ambalakadavu, Nettoor P.O.,  
Cochin-682 304.

..... **Applicant**

**(By Advocate – Mr. T.A. Rajan)**

**V e r s u s**

1. Union of India, represented by Secretary,  
Government of India, Ministry of Defence, New Delhi.
2. The Flag Officer Commanding-in-Chief, Headquarters,  
Southern Naval Command, Naval Base, Kochi-4.
3. The Chief Staff Officer (P&A), Headquarters,  
Southern Naval Command, Naval Base,  
Kochi-4.

..... **Respondents**

**(By Advocate – Mr. Sunil Jacob Jose, SCGSC)**

The application having been heard on 01.01.2010, the Tribunal on the same day delivered the following:

**ORDER**

**By Hon'ble Mr. George Paracken, Judicial Member -**

The applicant in this Original Application seeks a declaration that he is entitled to be regularized in service from the date of his initial appointment as Assistant Storekeeper on casual basis with all attendant benefits except



seniority.

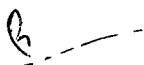
2. In this regard he has relied upon the Annexure A-1 order of this Tribunal in OA 434 of 1989 - A. Ramakrishnan Nair & Ors. Vs. Union of India & Ors. and other connected cases decided on 20.8.1990. The operative part of the said order is as under:

"19. In the conspectus of facts and circumstances, we allow this application in part to the extent of directing that the applicants should be regularized from the dates of their original appointment on a casual basis by condoning the breaks in service as in other cases with all consequential benefits except that of seniority. So far as seniority is concerned, though we feel in line with the Hyderabad, Calcutta and Madras Benches of the Tribunal that the benefit of seniority will also accrue to the applicants from the date of original appointment as casual worker, since the judgement of the New Bombay Bench is to the contrary, differing with that judgment in this respect, we direct the Registry to refer the following issue to the Hon'ble Chairman for constituting a Larger Bench for a decision. This is because the judgment of the New Bombay Bench being also in relation to the Southern Naval Command, the need to have uniformity of decision is very necessary not only within the Southern Command but amongst all the Naval Commands as the Seniority Lists of Assistant Store Keepers etc. are on an all-India basis. The issue to be referred to is as follows:

Whether the benefit of seniority to casual employees who are regularized in accordance with the Ministry of Defence letter dated 24.11.67 as amended by the corrigendum dated 27.5.80 can be given from the date of initial appointment on a casual basis, if the breaks in service are condoned, irrespective of the availability of a regular vacancy especially in respect of those casual employees who were regularized prior to 27.5.80.

3. The aforesaid order was followed by this Tribunal in Annexure A-4 order in OA 445 of 2004 - K.M. Girija Vs. Union of India & Ors. dated 20th July, 2006. The operative part of the said order is as under:-

"3. We have heard the counsel for both the sides and perused the material on record. The fact that the applicant was initially appointed as Safaiwala and also regularized as a Safaiwala with effect from 1.2.1989 are admitted by the respondents and their only contention is that the post of Safaiwala which is a non industrial post had later been converted to unskilled labourer which belongs to industrial cadre. No



record has been produced to show when the post was actually converted. As seen from the impugned order at Para 3 (a) respondents have themselves stated that the post was converted into the post of unskilled labourer with effect from 1.6.1990 and she was subsequently promoted as Semi Skilled Labourer on 1.3.1995. It is evident from the statement that the conversion into the post of unskilled labourer took place on 1.6.1990 by which time she had already been regularized i.e. from 1.2.1989. The applicant is only seeking ante dating of her regularization from 1989 to 1985 which period is not covered by the dispute regarding industrial or non industrial as contended by the respondents since it is an admitted fact that she was initially appointed only to the non industrial cadre of Safaiwala in 1985. Hence, till the conversion on 1.6.1990 she belonged to the non industrial cadre. Therefore, the contention of the respondents that the benefits of regularization as granted to the non petitioners by Annexure R-1 could not be extended to the applicant since she belonged to industrial cadre is baseless.

4. We are, therefore, of the view that the claim for regularization has to be considered with reference to her status as on the date of initial appointment and not as on 1995 when the sanction for regularization in case of non petitioners was issued. The prayer of the applicant is therefore, to be allowed. We direct the respondents to regularize the service of the applicant with effect from the date of initial appointment on casual basis i.e. with effect from 6.2.1985 condoning the artificial breaks. She will also be entitled to all consequential benefits except seniority as granted in respect of those employees regularized vide Annexure R-1 order. OA is, accordingly, allowed. The above order shall be complied with within a period of three months from the date of receipt of a copy of this order. No order as to costs."

4. Learned counsel for the parties have also submitted that later on this Tribunal has passed a similar order in OA 750 of 2008 - N.J.Xavier & Ors. Vs. Flag Officer Commanding-in-Chief, Headquarters, Southern Naval Command & Ors. decided on 25.7.2007. The operative part of the said order is as under:

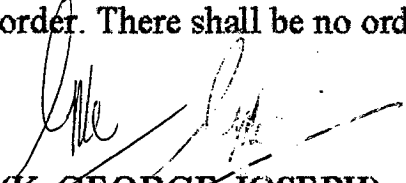
"5 Accordingly, the OA is allowed. The respondents are directed to re-consider the case of the applicants on the basis of above declaration and regularise the services of the applicants from the dates of their initial appointment as casual labour condoning the artificial breaks. They shall also be entitled to consequential benefits including payment of arrears but without seniority benefits. The respondents



shall issue necessary orders and make the payments within a period of three months from the date of receipt of copy of this order. No costs."

5. The respondents in their reply has submitted that they have already considered the case of the applicant and decided to extend the benefits of the aforesaid orders of this Tribunal.

6. That being the position, we allow and dispose of this OA with a direction to the respondents to grant the necessary benefits to the applicant within a period of two months from the date of receipt of a copy of this order. There shall be no order as to costs.

  
(K. GEORGE JOSEPH)  
ADMINISTRATIVE MEMBER

  
(GEORGE PARACKEN)  
JUDICIAL MEMBER

"SA"