

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.132/98

Monday, this the 16th day of October, 2000.

CORAM:

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

HON'BLE MR G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

V.K.Pillai,
Khalasi,
South Western Rivers Division,
Central Water Commission,
H.No.126/KLIV, Khalifa Buildings,
S.R.M.Road, Ernakulam North.P.O.
Cochin-682 018.

- Applicant

By Advocate Mr MC Cherian

Vs

1. The Chairman,
Central Commission,
Sewa Bhavan, R.K.Puram,
New Delhi.
2. The Executive Engineer,
Central Water Commission,
South Western Rivers Division,
Khalifa Building, XLVI/126,
S.R.M.Road, Cochin-682 016.
3. Union of India
represented by the Secretary,
Ministry of Water Resources,
Government of India,
New Delhi.

- Respondents


By Advocate Mr PR Ramachandra Menon, ACGSC

The application having been heard on 16.10.2000, the Tribunal on the same day delivered the following:


O R D E R

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

The applicant was initially appointed as Helper under the Central Water Commission for works in the Lower Lagyap Electrical and Mechanical Division, Sikkim on 17.5.75. He was promoted as work charged Work Sirkar Grade-III in the scale




Rs.210-290 on 20.4.79. Subsequently by order dated 28.5.83 A-1, the services of the applicant along with many others were placed at the disposal of the Superintending Engineer, Hydrological Observation and F.F.Circle, Nagpur with immediate effect in public interest. The applicant though was described as 'Observer' in the order was neither allowed to join as an Observer or even as a Work Sirkar Grade-III but was compelled to report at Delhi. However, he was taken to service as a Khalasi in the scale Rs.196-232 with effect from 8.7.83. After working for about five years in Ahmedabad as a Khalasi, the applicant requested for a transfer to the South Western Rivers Division, Cochin against a vacancy of Khalasi. That request having been accepted, the applicant was transferred and he joined at Cochin accepting the bottom seniority. Finding that a person, Shri Panchaman who was placed at the disposal of the Superintending Engineer, Hydrological Observation and F.F.Circle, Nagpur was under the orders of the Central Administrative Tribunal, Ahmedabad Bench, reinstated in the post of Observer and that another person by name Shri Thankachan obtained a similar order by filing O.A.684/91 before the Ernakulam Bench of the Tribunal, the applicant in the month of June, 1993 made a representation claiming seniority and promotion reckoning his service as Work Sirkar Grade-III. Though the representation made by the applicant was forwarded by the Superintending Engineer on 10.9.93, the same was not considered and disposed of. The applicant thereafter approached this Bench of the Tribunal by filing O.A.399/94 which was disposed of directing the respondents to




2. The respondents contend that the O.A. apart from being barred by limitation the applicant who accepted the post of Khalasi in 1983 and got transferred to Kochi after five years accepting bottom seniority in the grade is estopped from making the claim. They have reiterated what has been stated in the impugned order meeting the allegations in the application.

3. On a careful appraisal of the facts and circumstances revealed from the pleadings and the other documents placed on record and on hearing the learned counsel on either side, we find no subsisting or legitimate ground for the claim of the applicant for regularisation of his service in the post of Work Sirkar Grade-III with effect from 20.4.79 and as Observer or other equivalent post in scale Rs.260-400 with effect from 28.5.83. The applicant was working on a work charged post and his services could have been retrenched on completion of the project. Instead of retrenching the applicant and throwing him out of job, the applicant was placed at the disposal of the Superintending Engineering, FF Circle, Nagpur. S/Shri Panchaman and Thankachan were persons who had been promoted as Work Sirkar Grade-II and were appointed as such on their transfer at Ahmebadbad in June, 1983 and when they were asked to work against lower posts, they approached the Tribunal and got favourable orders. The case of the applicant is entirely different. Applicant was not promoted as Work Sirkar Grade-II nor did he possess the qualification for appointment as Observer for which the minimum educational qualification




give the applicant an appropriate reply making it clear that the order would not revive a cause of action if it has already been barred by limitation. A negative reply was given to his representation. The applicant agitated the issue again and ultimately by the impugned order A-18 which is a speaking order, the claim of the applicant for appointment as Observer and to give him seniority and promotion was turned down on the ground that the applicant was only a work charged employee who should have been retrenched on completion of work in the project, that he was, as a show of goodwill accommodated as a Khalasi which he accepted in the year 1983 voluntarily and that after lapse of a long period, his claim for protection of seniority as Work Sirkar and appointment as Observer cannot be acceded to. The claim of the applicant for a parity with Thankachan and Panchaman have been met by saying that both of them had been regularly promoted as Work Sirkar Grade-II and posted as Observers and it was challenging the orders directing them to give willingness to work as a Khalasi which is two grade lower that they approached the Tribunal which upheld their claims. The case of the applicant therefore has no comparison with those two persons according to the respondents. Impugning this order the applicant has filed this application praying that this order may be set aside and the respondents be directed to regularise the service of the applicant as Work Sirkar Grade-III with effect from 20.4.79 as 'Observer' with effect from 28.5.83 or other equivalent post in the scale Rs.260-400 with effect from 28.5.83 onwards in continuation of his prior service in Sikkim with attendant benefits.



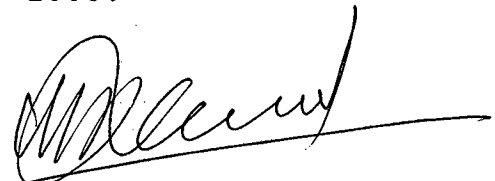
prescribed is Matriculation or equivalent. The applicant was accommodated as a Khalasi which probably was the post available at the time which the applicant accepted whatever be the compelling reason without any protest. Having accepted the post of Khalasi in the year 1983 and having got transferred to Cochin after five years accepting the bottom seniority, the applicant is not entitled at this distance of time to seek restoration of his post of Work Sirkar Grade-III or seek appointment as 'Observer'. The right, if any, the applicant had has been lost by lapse of time and limitation. Further, the applicant cannot compare himself with Panchaman or Thankachan who were appointed as Work Sirkar Grade-II. In any case, as the issue is barred by limitation, the applicant is not entitled to the reliefs.

4. In the result as the O.A. is barred by limitation as also there is no merit in the claim, the same is dismissed leaving the parties to suffer their own costs.

Dated, the 16th of October, 2000.



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

trs

Annexure A-18: True copy of Order No. SWRD/Adm-1/CC-40/94/6447 dated 23.12.96 of 2nd respondent to applicant.