CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA Nos. 137/98, 9/98 and 839/98

Monday the 22nd day of March 1999.

CORAM

HON'BLE MR A.M. SIVADAS, JUDICIAL MEMBER

OA 137/98

1. Pithiyammel Jamaluddin
   Mate
2. Koshiyoda Muthukoya
   Mate
3. Kunnamangalam Mullakoya
   Mate
4. Shaik Hussain S.
   Mate
5. Pokkayoda Ashraf
   Casual Labourer
6. Mohammed Saleel K.
   Casual Labourer
7. Puthiyapura Nazir
   Casual Labourer
8. Melapura Muhammed
   Casual Labourer
9. Pokkayoda Sadiq Ali
   Casual Labourer

(All are employed in Water Supply Scheme, Panchayat Department, Kiltan Island, Union Territory of Lakshadweep) ...Applicants.

(By advocate Mr Shafik M.A.)

Versus

1. Union of India, represented by the Administrator, U.T.of Lakshadweep, Kavaratti.
2. The Director of Panchayath
   U.T.of Lakshadweep,
   Kavaratti.
3. The Superintending Engineer
   Lakshadweep Public Works Department
   Union Territory of Lakshadweep
   Kavaratti.
4. The Special Officer
   Village (Dweep) Panchayat
   Kiltan.
5. The President
   Village (Dweep) Panchayat
   Kiltan Island
   Union Territory of Lakshadweep.
6. Union of India, represented by Secretary, Min. of Personnel, Public Grievances & Pension, New Delhi. ...Respondents

(By advocate Mr S.Radhakrishnan)

OA 9/98

1. Nader Koya
   S/o Pookoya.B.

2. Ukkas U.,
   S/o Late M.P.K.Kasmi

3. Mohammed Koya. C,
   S/o Attakoya. P.,

4. Sayeedul Hameed T.K.P.
   S/o Aboobacker Koya M.P.

(All are labourers, Dweep Panchayat, Agathi Water Supply, Agathi P.O. Lakshadweep) ...Applicants

(By advocate Mr M.R.Rajendran Nair)

Versus

1. The Administrator
   Union Territory of Lakshadweep
   Kavarathi.

2. The Director of Panchayath
   Union Territory of Lakshadweep
   Kavarathi.

3. Union of India, represented by
   Secretary to Government,
   Ministry of Home Affairs
   New Delhi.

4. Union of India represented by
   Secretary to Government of India
   Ministry of Personnel, Public
   Grievances and Pension
   New Delhi. ...Respondents.

(By advocate Mr P.R.Ramachandra Menon)

OA No.839/98

1. K.C.Muthukoya
   S/o U.C.Anth

2. K.Kunhimon
   S/o P.P.Mohammed

3. C.P.Hamza
   S/o M.C.Mushtaq

4. Abdul Shukoor T.I.
   S/o U.C.Ahmed

5. C.Abdul Kader
   S/o T.P.Ahamed

6. Basheer P.S.,
   S/o A.C.Mohammed

7. Attakidave P.P.
   S/o K.K.Anthari

8. P.P.Abdulmanaf
   S/o K.C.Kasmi

(All are Chowkidars, Island Council, Kadamat) ...Applicants

(By advocate Mr M.R.Rajendran Nair)

Versus

1. The Administrator
Union Territory of Lakshadweep
Kavarathi.

2. The Director of Panchayath
Union Territory of Lakshadweep
Kavarathi.

3. Union of India, represented by
Secretary to Government
Ministry of Home Affairs
New Delhi.

4. Union of India, represented by
Secretary to Government of India
Ministry of Personnel, Public Grievances
and Pension, New Delhi. ...Respondents.

(By advocate Mr P.R.Ramachandra Menon)

The three applications having been heard together, on 22nd March 1999, the Tribunal on the same day delivered the following by this common order:

ORDER

HON'BLE MR A.M.SIVADAS, JUDICIAL MEMBER

Applicants in OA 137/98 seek the following reliefs:

(i) To call for the records relating to Annexure A-1 and to quash the same.

(ii) To declare that the applicants are entitled to be conferred with temporary status as per Annexure A-3 Scheme with effect from the date on which they completed 240 days of service and to direct the respondents to confer such temporary status to the applicants with all consequential benefits or in the alternative to formulate a Scheme in tune with A-3 scheme and to grant the applicants temporary status and regularisation.

(iii) To direct the respondents to pay the arrears of enhanced wages on the basis of such conferment.

The reliefs sought by the applicants in OA 9/98 and OA 839/98 are identical.

2. Impugned orders are passed by the first respondent in pursuance of the directions of this Bench of the Tribunal in OA Nos.835/96, 803/95 and 1142/95. In paragraph 3 of the order in OA No.835/96, it has been specifically stated thus:

> "Even though the scheme A-2 may not technically apply to the applicants, the respondents have a duty to formulate a scheme for the grant of temporary status/regularisation of casual labours since a policy decision has been taken by the Govt. of India in this behalf as seen from A-2, in pursuance of the directions of the Apex Court. The applicants cannot be left high and dry on the plea that they are being employed by an autonomous body which has been set up by the Government of India. From the pleadings before us it is not clear under what terms and conditions the employees of the Island Council have been recruited and later transferred to the Dweep Panchayat. The terms and conditions of the employees of the Dweep Panchayat are also not placed before us."

3. From a reading of the impugned orders, it is clearly seen that these orders are not passed strictly in compliance with the directions contained in the orders of this Bench of the Tribunal in the true spirit of the orders.

4. Learned counsel appearing for the respondents submitted that though there is a direction to the first respondent, the Administrator in OA 835/96 to dispose of the representation, the first respondent, the Administrator is not competent to consider the question of formulating a scheme for grant of temporary status/regularisation for casual labourers like the applicants since it can only be done by the Government of India. I find force in this argument.

5. As per the impugned orders, the prayer of the applicants has been turned down by the administrator. It is not on the ground that the Administrator is not competent to formulate a scheme for grant of temporary status/ regularisation of casual labourers like the applicants but on the ground that the scheme which came into force on 1.9.93 has no application to the applicants. When it is a case of the lack of competency or jurisdiction for the first respondent to comply with the directions contained

in the orders, either that fact could have been brought to the notice of the Tribunal and sought clarification or at least that fact could have been stated in the impugned orders. The applicants in all these OAs now seek permission to bring the Union of India represented by the Ministry of Personnel, Public Grievances and Pensions. Learned counsel appearing for the respondents submitted that there is no objection in bringing the Union of India represented by the Ministry of Personnel, Public Grievances and Pensions on record. Accordingly, permission is granted.

6. It is admitted case of both sides that only the Government of India is competent to formulate a scheme as mentioned in paragraph 3 of the order in OA 835/96. Since the impugned orders cannot be said to be strictly in compliance with the directions contained in the orders and the reliefs sought by the applicants are refused not on the ground of the lack of jurisdiction on the part of the Administrator, the impugned orders are quashed.

7. Applicants are permitted to submit through proper channel representations to the supplemental respondent brought in the party array today, i.e. Union of India represented by the Ministry of Personnel, Public Grievances & Pensions, within three weeks from today. If such representations are received, the supplemental respondent, i.e. the Union of India represented by Ministry of Personnel, Public Grievances & Pensions shall consider those representations in the light of the order in OA 835/96 and pass appropriate orders as expeditiously as possible after affording a reasonable opportunity to all persons, organisations and institutions concerned in the matter.

8. Fifth respondent in OA 137/98 has raised a contention as to the maintainability of this OA against fifth respondent before this Tribunal. That question is left open since no relief is granted against the fifth respondent in OA 137/98.

9. Applicants in OA 137/98 were continuing under the respondents on the strength of the interim order of this Tribunal. That interim order was vacated as per order dated 11.3.99. It is submitted by both sides that the applicants are still engaged and their services are not terminated. If the respondents do not find any reasonable justification for their continuance, their services shall not be terminated without giving an opportunity of being heard.

OAs are disposed of as above. No costs.

Dated 22nd March 1999.

(A.M.SIVADAS)
JUDICIAL MEMBER

aa.

List of annexures referred to in the order:

OA 137/98: Annexure A-1: True copy of the order F.No. 1/38/96-DOP dated 10.11.97 of the first respondent.

Annexure A-3: True copy of the O.M.No.51016/ 2/90-Estt.(C) dated 10.9.93 of the Ministry of Personnel, Public Grievances & Pensions, New Delhi.

Annexure A-4: True copy of the order dated 2.7.97 passed by this Tribunal in OA 835/96.

Annexure A-5: True copy of the representation submitted by the applicants before the first respondent dated 23.7.97.

OA 9/98: Annexure A-14 true copy of the order F.No.1/8/95/ DOP dated 7.11.97 issued by 1st respondent.

Annexure A-8: True copy of the scheme dated 10.9.93 issued by Ministry of Personnel, Public Grievances & Pensions, New Delhi.

Annexure A-13: True copy of the joint representation dated 28.7.97 by applicants to first respondent.

OA 839/98 : Annexure A-15: True copy of the order F.No. 1/18/95-DP dated 10.11.97 issued by the first respondent.

Annexure A-8: true copy of the scheme dated 10.9.93 issued by the Ministry of Personnel, and Training, New Delhi.

Annexure A-14: True copy of the joint representation dated 28.7.97 submitted by applicants to first respondent.