

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A.NO. 142/2004

Friday, this the 24th day of June, 2005.

**CORAM:**

**HON'BLE MR K.V.SACHIDANANDAN, JUDICIAL MEMBER**  
**HON'BLE MR N.RAMAKRISHNAN, ADMINISTRATIVE MEMBER**

K.Samuel,  
S/o late Kanakraj,  
Foreman of Stores,  
Trisul Installation Naval Team,  
Naval Base,  
Kochi - 682 004.                      -                      Applicant

By Advocate Mr PK Madhusoodanan

vs

1. Union of India,  
represented by its Secretary,  
Ministry of Defence,  
New Delhi.
2. The Chief of naval Staff for  
Principal Director of Logistic Support,  
Integrated Head Quarters,  
Ministry of Defence (Navy),  
Directorate of Logistic Support,  
'C' Wing Sena Bhavan,  
New Delhi - 110 011.
3. The Director,  
Trishul Installation Naval Team,  
Naval Base,  
Kochi -682 004.                      -                      Respondents

By Advocate Mr T.P.M. Ibrahimkhan, SCGSC

The application having been heard on 24.5.2005, the Tribunal on 24.6.2005 delivered the following:

## O\_R\_D\_E\_R

HON'BLE MR N.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

This is an Original Application filed by Shri K Samuel, Foreman of Stores, Naval Base, Kochi under Section 19 of the Administrative Tribunals Act, 1985 seeking redressal of his grievance relating to promotion and seniority in the post of Senior Store Keeper.

2 According to the applicant, he, while working as Store Keeper conveyed his willingness for being considered for *ad hoc* promotion to one of the five posts of Senior Store Keepers (SSK) at Naval Store Depot, Goa. In reply, vide A-1 letter dated 31.8.81, he was notified for such *ad hoc* promotion. Though initially reluctant, he accepted the *ad hoc* promotion owing to pressures and promises from his seniors and took charge on 26.11.81 at Goa. He was regularly promoted to the grade of Senior Store Keeper in due course with effect from 28.2.92. While working in the same grade at Chennai, his request for granting seniority in the regular grade of SSK with effect from 26.11.81, the date of assumption of charge as *ad hoc* Senior Store Keeper at Goa was rejected. He moved the Chennai Bench of the C.A.T. which dismissed his pleas and then the Hon'ble High Court of Madras where again he was unsuccessful. He made A-4 representation to the R2, claiming seniority as Senior Store Keeper from 14.11.81. This was rejected on 21-3-03 on the ground that he was holding the post of SSK purely on *ad hoc* basis till his regular promotion on 28-2-02 vide A-5 (one of the impugned orders). He again represented to the R2 claiming seniority with effect from 26.11.81 the date of promotion of *ad hoc* Senior Store Keeper (A-6). He sought to secure an order from this Tribunal in O.A.795/2003 which was disposed off on 29.11.2003 with a direction to the Chief of Naval Staff to dispose of A-3 of that O.A. (A-6 of this O.A.)(A-7). The representations of the



applicant were examined and respondents disposed of the same vide A-9 reference dated 20-1-2004 which is also an impugned order.

3. As reliefs, the applicant seeks to set aside A-5, A-8 and A-9, to declare counting of his services with effect from 26.11.81 as Senior Store Keeper and to give consequential benefits. He rests his case on the following grounds:

- A-5, A-8 and A-9 are illegal.
- The post at Goa in which he was given ad hoc promotion was regular and permanent and the dicta pronounced in AIR 1990 SC 1607 squarely applied to his case.
- The adhoc promotion continued for quite some time which would entitle him to the benefits of seniority from the date of promotion to the ad hoc post and the dicta in 1980 (4) SCC 226 would be applicable in his case.
- He accepted the posting under pressure from his seniors.

4. In reply, the respondents have stated that the candidates for ad hoc promotion were suitably advised on the attributes of such promotion like, ineligibility of the service rendered therein for seniority purposes and for regular appointment in the grade. The movement of the applicant to the ad hoc promotion was purely voluntary. Actually, one of the volunteers later on retracted his acceptance, which led to the offer of the resultant vacancy to the applicant. Period of appointment/promotion in an ad hoc vacancy on volunteer basis and not on seniority/merit if considered for the purpose of seniority, the individuals who did not volunteer for such appointment would lose their seniority for no fault of theirs. The ad hoc vacancy of Senior Store Keeper in Goa ceased as the same was not further regularized, showing that the vacancy was not a permanent one. Grant of seniority for ad hoc appointment/promotion would be applicable in case of permanent vacancies only and not in case of casual vacancies such as the one at Goa.

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5. We heard counsel for both sides. Learned SCGSC Shri P.K.Madhusoodanan appearing for the applicant argued essentially stressing the points made in the application. Learned Counsel Shri TPM Ibrahimkhan countered these points made in the reply statements.

6. The first point to decide is the nature of the vacancy. A-1 does not specifically make any reference to the nature of the vacancy. Vide A1 the transfer is said to be of permanent duty. The vacancy is further described as casual and adhoc and temporary mainly in the communications relating to disposals of respondents in reply to the representations of the applicant. In the rejoinder, the applicant advances the argument that there cannot be an ad hoc promotion against a casual vacancy and such promotion can be only against a permanent post. No settled law has been advanced in support of his contentions. But, as referred to earlier, the ad hoc vacancy of Senior Store Keeper in Goa ceased as the same was not further regularized, showing that the vacancy was not a permanent one. Hence the stand of the naval authorities has to be accepted as to the nature of the vacancy.

7. The next point is about the nature of disclosure made to the applicant prior to the acceptance of assignment at Goa. The A-1 promotion order makes the attributes of the ad hoc promotion amply clear by specifying that the promotions will be on ad hoc basis, they shall not bestow any claim for regular appointment in the grade and the service rendered on ad hoc basis will also not count for the purpose of seniority in the grade and for determining eligibility for promotion, confirmation etc. The applicant admits that acceptance of the offer was voluntary in nature. Then his argument that he was pressurized to accept the assignment runs contrary to this. This is especially so when one of the volunteers earlier selected retracted later giving rise to the vacancy filled in subsequently by the applicant. Though he claims to have made

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representations for transfer back to Cochin, he has not adduced any documents in this regard.


8. The next point is about the sustainability of the claims made by the applicant for counting his adhoc services for seniority. As mentioned above, the offer of appointment makes it amply clear about ineligibility of the service rendered for purposes like seniority, promotion etc. His regular promotion orders were issued on 5.12.91 reckoning his seniority in the All India seniority list as a Store Keeper. The promotion was made after DPC. His designation as Store Keeper and not as Senior Store Keeper was reflected in the promotion orders and he did not object to the appellation. Perhaps, the most compelling argument against his claim is that period of appointment on volunteer basis and not on seniority/merit if considered for the purpose of seniority would work injuriously to the interests of those officers who did not volunteer for such appointments.

9. The next point is about the applicability of the various citations of judgments of the Hon'ble Supreme Court in support of his claim. In AIR 1990 SC 1607, relied upon by the applicant, the Hon'ble Supreme Court, has observed "...Where the initial appointment is only ad hoc and not according to rules and made as a stop gap arrangement, the officiation in such post cannot be taken into account." According to the respondents, these apply only to permanent posts and the post at Goa is only a non-permanent post. The other citation quoted in AIR 1993 SC 1650 relates to cases of regularization of irregular appointments. The present case is one of counting the services of ad hoc appointment for seniority.

10. In short, it is apparent that the applicant accepted the ad hoc appointment with full consciousness of its attributes, no unjust treatment was meted out to

him in delaying his promotion as Senior Store Keeper when it became due, and it would be iniquitous to allow him to count the duration of his service in the ad hoc promotion which he accepted on voluntary basis. Hence we come to the conclusion that he has no valid case. Accordingly we dismiss the O.A. without any order as to costs.

Dated, the 24<sup>th</sup> June, 2005.



N. RAMAKRISHNAN  
ADMINISTRATIVE MEMBER



K.V. SACHIDANANDAN  
JUDICIAL MEMBER

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