

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO.157/2009

Dated this the 17th day of December, 2010

C O R A M

HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

- 1 P.G.Joseph
 Mali, INS Venduruthy
 Southern Naval Command
 Kochi-4
- 2 C.M. Syed Muhammed
 Mali Mali, INS Venduruthy
 Southern Naval Command
 Kochi-4
- 3 T.Y.Job
 Mali, INS Venduruthy
 Southern Naval Command
 Kochi-4
- 4 A.B. Muhammedkunju
 Mali, INS Venduruthy
 Southern Naval Command
 Kochi-4
- 5 A.M. Akbar
 Mali, INS Venduruthy
 Southern Naval Command
 Kochi-4
- 6 V.K.Thrivikraman
 Mali, INS Venduruthy
 Southern Naval Command
 Kochi-4

..Applicants

By Advocate Mr. CSG Nair

- 1 The Flag Officer Commanding in Chief
 Southern Naval Command, Cochin-4

2 Union of India represented by its Secretary
Ministry of Defence, South Block
New Delhi-110 001

..Respondents

By Advocate Sunil Jacob Jose, SCGSC.

The Application having been heard on 9.12.2010 the Tribunal delivered the following:

ORDER

HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

The applicants are working as Mali under the 1st respondent. All of them were initially employed as Casual Labourers, later they were given temporary status and then regularised. They have continuous service for a number of years with artificial breaks. The details of service particulars are given below:

	Initial appointment	Temporary status	regularisation	
1 st applicant	18.11.1976	03.11.2000	24.10.2005	
2 nd applicant	05.05.1981	18.04.2001	24.10.2005	
3 rd applicant	10.07.1978	24.05.2001	24.10.2005	
4 th applicant	16.01.1986	23.10.2000	06.02.2006	
5 th applicant	30.09.1985	10.10.2001	06.02.2006	
6 th applicant	03.09.1987	25.05.2001	18.10.2006	

Relying on the orders of the Tribunal in similar cases (A-3, A-9 and A-10) the applicants are seeking extension of the law laid down by the Tribunal for regularisation in service from the date of their initial engagement and to refix their pay granting increment to the services rendered by them with all attendant benefits.

2 The respondents in the reply statement distinguished the case of the applicants with that of the applicants in the cases relied on by them. They contended that the applicants in the O.A on hand were initially engaged as

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labourers on daily wage basis as and when required for a period less than 90 days unlike other personnel who were employed continuously with intermittent breaks, on monthly wages. The applicants were conferred with temporary status on completion of 206 days in a year and subsequently regularised in accordance with Annexure A-2 Scheme. They stated that the Ministry of Defence has directed to fix the pay of all the employees on temporary status in accordance with the provisions contained in Annexure A-7 OM dated 9.5.2008 according to which the pay of casual workers with temporary status on their regularisation against Group-D posts in identical grades will be fixed after taking into account the increments already earned by them in the Group-D pay scale which was taken into account for payment of wages while working as casual worker with temporary status. They stated that no post in any cadre can be filled without satisfying the conditions prescribed in the Recruitment Rules and that in the case of Unskilled Labourers there exist Recruitment Rules as per which only direct recruitment is being carried out.

3 On 6.3.2009 when the Application came up for admission, the Tribunal while admitting the O.A directed the respondents to revise the pay of the applicants from their admitted dates of regularisation and fix the pay after taking into consideration the increments already earned by them as casual labourers with temporary status. The respondents were directed to draw the arrears on this account and disburse the same to the applicants on or before 30.4.2009 and to pay the salary for the month of April, 2009 on the basis of the pay so revised. They were also directed to produce the muster rolls of the applicants to verify the date of completion of 206 days. The learned counsel for the respondents filed a statement on behalf of the respondents stating that the old records like the pay bills /muster rolls etc. are to be kept for a period of ten years only and as such, those records which have been kept beyond the specific period are weeded out. The learned counsel further stated that the pay of the applicants have been revised from the date of regularisation in accordance with the provisions contained in A-7 OM and

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5 In the facts and circumstances of the case, I am of the view that the applicants' case is covered by the order of the Tribunal in O.A. 536/08 and other identical cases. By the interim order of the Tribunal dated 6.3.2009 the main relief of the applicants have already been granted. In the circumstances, nothing survives in this O.A which is accordingly closed. No costs.


K. NOORJEHAN
ADMINISTRATIVE MEMBER

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