

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O. A. No.  
~~XXXXXX~~

159

1991

DATE OF DECISION 6.12.1991

T.P.Sajeev and 5 others Applicant (s)

Mr.P.Sivan Pillai Advocate for the Applicant (s)

Versus

UOI rep. by Secy., M/o Agriculture Respondent (s)  
ture (Deptt. of Agriculture and Co-operation)  
Krishi Bhavan, New Delhi & Another

Mr.KA Cherian, ACGSC Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. N.V.Krishnan - Administrative Member  
and  
The Hon'ble Mr. A.V.Haridasan - Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? ✓
2. To be referred to the Reporter or not? ✓
3. Whether their Lordships wish to see the fair copy of the Judgement? ✓
4. To be circulated to all Benches of the Tribunal? ✓

JUDGEMENT

(Mr.N.V.Krishnan, Administrative Member)

The applicants are casual labourers under the second respondent having been engaged in that capacity for more than 6 years now. The seniority of the casual labourers is at Annexure-A.I. In pursuance of the Govt. of India directions of Ministry of Personnel, Public Grievances and Pensions OM No.49014/2/86-Estt(C) dated 7.6.1988 (Annexure-A.2), a review of the appointment of casual labourers was made and, on the initiative taken by the second respondent, the Ministry sanctioned 50 posts for regularisation of casual labourers mentioned in Annexure-A.I, 45 of the casual labourers mentioned

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in the Annexure-A.I <sup>Q</sup>seniority list have already been absorbed against these regular posts. In regard to the remaining 5 posts, the second respondent has taken the view that these are to be treated as reserved for appointment by SC & ST and other reserved categories as stipulated in the normal employment policy of the Govt. of India relating to reservation. As persons of this category are not available among the casual workers in the Annexure-AI list, the second respondent has now initiated steps to call for suitable names <sup>Q</sup> of such persons from the Employment Exchange to fill up these posts so that the standing instructions relating to reservation on various ground<sup>u</sup> can be complied with.

2. It is at this stage that the present applicants have filed this application. The fundamental submission made in this application is that as, admittedly, the 50 regular posts have been created only for the regularisation of the existing casual labourers, the only course open to the respondents is to fill up these 50 posts in the order of seniority as at Annexure-A1 subject to suitability. It is not open to the Department to state that a quota of 5 posts has to be kept vacant in these 50 posts for being filled up by reserved categories. It is in this background <sup>Q</sup>

the applicants have prayed for the following directions/  
reliefs:

(a) To direct the respondents to fill up the remaining 5 posts of processing workers sanctioned vide Annexure A3 from among the casual workers on the rolls in Annexure-A1 only, from the date the adjustment is actually due.

(b) To issue such other directions or orders as deemed fit and necessary by this Hon'ble Tribunal in the facts and circumstances of this case.

3. The respondents have filed a reply which does not contradict the main submissions on facts made by the applicant. It is stated in para 4 of the reply that the remaining 5 unfilled posts are reserved one each for SC community SC non-priority, ST non-priority, Ex-servicemen and physically handicapped. It is therefore submitted that the application has no force which has to be rejected.

4. The policy of the Govt. of India regarding granting of reservation for various purposes is to be applied, no doubt to posts created afresh provided they are created without any condition, In the present case, the creation of these posts is admittedly for regularising the existing casual labourers. That direction has been issued on entirely different considerations

Those considerations have been set out in the Ministry of Personnel OM dated 7.6.1988 where the continued engagement of casual labourers has been deprecated and suggestions have been made to see that the work performed by the casual labourers is transferred to the existing regular staff to the extent possible and if that is not possible to create regular post to absorb all the existing casual labourers. That is also another policy of the Govt. of India which has to be given equal weightage.

5. Admittedly, the 50 posts are meant only for absorption of the casual labourers in the context of this policy of the Govt. of India. That being the case, there is no scope for making a reservation under the general orders of the Govt. of India in this category of posts.

6. Accordingly, we allow the application and direct the respondents to fill up the remaining posts also from only the existing casual labourers mentioned in the Annexure-A1 seniority list. The application is disposed of accordingly.

  
(A.V. HARIDASAN)  
JUDICIAL MEMBER

  
(N.V. KRISHNAN)  
ADMINISTRATIVE MEMBER

6.12.1991