

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No.167/2004

Dated Tuesday this the 9th day of March, 2004.

C O R A M

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR.H.P.DAS, ADMINISTRATIVE MEMBER

1. M.J.Paulose
S/o Late M.O. Joseph
Fire Engine Driver (Grade II), Fire Station
INS Venduruthy, Cochin-4.
Residing 'Madasseril House'
East Marady P.O. Muvattupuzha
Ernakulam Dist.
2. T.K.Shanavas
S/o P.N.Kesavan
Fire Engine Driver (Grade II), Fire Station
INS Garuda, Cochin.
Residing at 'Ashirvadam House'
Kumbalam P.O.
Ernakulam District.
3. T.T.Joy
S/o T.O.Thomas
Fire Engine Driver (Grade II), Fire Station
INS Garuda, Cochin.
Residing at 'Thekkenedathu House'
Polleriparampu, Maradu P.O
Ernakulam Dist.

Applicants.

(By advocate Mr.Shafik M.A.)

Versus

1. Union of India represented by
Secretary to the Govt. of India
Ministry of Defence, New Delhi.
2. The Flag Officer Commanding in Chief
Southern Naval Command
Kochi.
3. The Commanding Officer
INS Venduruthy
Naval Base, Kochi.

Respondents.

(By advocate Mr.C.Rajendran, SCGSC)

The application having been heard on 9th March, 2004 the Tribunal on the same day delivered the following:

O R D E R

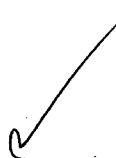
HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN

The applicants, three in number, who are Fire Engine Drivers (Grade II) working under the 2nd respondent, were

initially engaged on casual basis w.e.f. various dates during 1985-87. However, they were regularized in service only from 1991 initially. Thereafter their services were regularized w.e.f. their initial engagement on casual basis. The claim of the applicants for financial upgradation under the ACP Scheme reckoning their service with effect from the date of their initial appointment was turned down by impugned orders Annexures A1 & A2 on the ground that their services w.e.f. the date of their regular appointment alone would be counted and that the judgement relied on by them in their representations is not applicable to them as they were not parties to that. The applicants have, therefore, filed this application for the following reliefs:

- (i) To call for the records relating to Annexures A1 to A3 and to quash A1 & A2.
- (ii) To declare that the applicants are entitled to the benefit of the ACP Scheme of the Government of India on the basis of the date of initial entry which is already regularized and to direct the respondents to immediately fix the pay of the applicants accordingly and to disburse the arrears, if any, with 18% penal interest.
- (iii) To declare that the interpretation given to the term regular service by the respondents is illegal, arbitrary and violative of Articles 14, 16 and 21 of the Constitution of India.

2. When the application came up for hearing, the learned counsel for the respondents stated that in view of the several judgements of the Tribunal on identical matters, the respondents would not wish to contest the claim of the applicants for financial upgradation under ACP Scheme with effect from the date of initial appointment of the applicants, which has been subsequently covered. However, the counsel stated that while the claim of the applicants for financial upgradation may be allowed, the respondents may not be directed to pay interest on the



arrears and they be given six months' time to make available to them the arrears of pay and allowances. This request on behalf of the respondents appears to be reasonable and is not opposed by the learned counsel of the applicant.

3. Under these circumstances, the application is disposed of at this stage declaring that the applicants are entitled to the benefit of the ACP Scheme reckoning their service from the date of initial engagement which has been regularized condoning the artificial breaks, and directing the respondents to consider the applicants for financial upgradation accordingly and make available to them the arrears of pay and allowances resulting therefrom, if any, within a period of six months. It is also made clear that the applicant would not be entitled to get any interest till that date on the arrears. A-1 & A-2 are set aside. There is no order as to costs.

Dated 9th March, 2004.

H. P. DAS

ADMINISTRATIVE MEMBER

aa.

A. V. HARIDASAN
VICE CHAIRMAN

