

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O. A. No. 192 of 1993.

DATE OF DECISION 23-3-1993

K. Raman \_\_\_\_\_ Applicant (s)

M/s M R Rajendran Nair \_\_\_\_\_ Advocate for the Applicant (s)

Versus  
Director General, Deptt. of  
Light House & Lightships,  
East Block, New Delhi and  
others. Respondent (s)

1. Mr Joy George, AGCSC \_\_\_\_\_ Advocate for the Respondent (s) 1-3  
2. Mr MGK Menon \_\_\_\_\_ for Respondent-4

CORAM :

The Hon'ble Mr. AV Haridasan, Judicial Member  
and

The Hon'ble Mr. R Rangarajan, Administrative Member

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

## JUDGEMENT

Shri AV Haridasan, J.M

The applicant is a orthopaedically handicapped person and is working as Lower Division Clerk (L.D.C.) on ad-hoc basis in the Office of the Respondent-2 from 16.5.89. He was appointed which occurred as a result of deputation of one on ad-hoc basis in a vacancy result of deputation of one

Shri N P Pillai as Divisional Accountant on ad-hoc basis. When

the services of the applicant was about to be terminated, he

filed O.A. 626/90 which was disposed of on 12.2.92. by xxthix

xxxxxx The applicant was allowed to continue in the post

and the impugned order was set aside, but it was made clear in

the order that the continuance of the applicant in the post

would be only as long as Shri N P Pillai was not reverted from

the post of Divisional Accountant held by him or until a person selected by the Staff Selection Commission (SSC) reports for joining duty. However, <sup>when</sup> a nominee of the SSC was sent to the office for joining as LDC, the services of the applicant were again sought to be terminated. The applicant challenged the same in OA 703 of 1992. That application was also disposed of by the order dated 21.7.92 disallowing the prayer for quashing the order of termination, but directing that the Respondent-1 therein should obtain and forward an application from the applicant for the Clerk Grade Examination and, that if any vacancy arose anywhere in the cadre, the applicant should be retained on ad-hoc basis in that post. Now again, the applicant was threatened with termination of service. It was in these circumstances that the applicant has filed this O.A. for direction to the respondents to consider his request for regularisation and for a declaration that he is entitled to be regularised in service. As there was an interim stay, the applicant was continuing in service for some time. But the order of stay was modified, as the nominee of the SSC ~~had reported~~ for duty in the office of the respondents as LDC. The interim order was modified on 15.2.93 allowing the Respondent-4 to terminate the services of the applicant for accommodating the nominee of the SSC, but making it clear that if any vacancy exists in the cadre, the applicant should be considered for retention in service on ad-hoc basis.

2 The respondents contend that the applicant who has been appointed only on ad-hoc basis is not entitled to be regularised on a post and that as there is no post of LDC vacant for the time being, the applicant is not entitled for retention.

3 We have heard the arguments of the learned counsel for both the parties and also carefully scrutinised the pleadings.

4 The applicant admittedly is a person who is a orthopaedically handicapped and continued to work on ad-hoc basis since 1989. ~~XXXXXX~~ He had expressed his willingness to serve anywhere in the country on an ad-hoc basis, even in difficult station like Andaman and Nicobar Islands. It is found in OA 703/92 that by issuing a circular, the respondents have invited applications for Clerk's grade Examination from ad-hoc LDCs, but the applicant was not informed of the same by Respondent-2. Though no person has a right to be appointed to any post, the applicant being an orthopaedically handicapped belonging to a backward community who worked on ad-hoc basis for more than four years and prepared to work anywhere in India, we are of the view that he including the Andaman and Nicobar Islands, should not be completely left out of consideration even for ad-hoc appointment, if such vacancy exists. Regarding the regularisation in the post of LDC, the applicant has made representations before Respondents 1 & 3 which is still

pending. Regarding the representations, we are of the view that the proper course would be to leave the same to the respondents to take a decision, in accordance with law. So far as his continuance in service on ad-hoc basis is concerned, we feel that the situation demands a direction to be given to the respondent-1 that the applicant should be posted on ad-hoc basis as LOC, if there is any vacancy in the cadre anywhere in India, including Andaman & Nicobar Islands. The learned counsel for the applicant to-day produced for our perusal an order dated 1st March, 1993 issued by the Respondent-2 in this case wherein the applicant has been informed that he cannot be retained on ad-hoc basis anywhere since vacancies are being filled by the nominees of SSC and the remaining vacancies are also expected to be filled in this manner. Learned counsel for the applicant submitted that it is not true to say that there are no vacancies in the cadre, and that even after appointing candidates selected by the SSC, there will be vacancies in the cadre. He prays that the respondents may be directed to give ad-hoc posting to the applicant atleast as long as vacancies exist, i.e., till SSC selected candidates report for duty.

5 In the conspectus of facts and circumstances, we are of the view that it is just and necessary in the interest of justice to give such a direction. In

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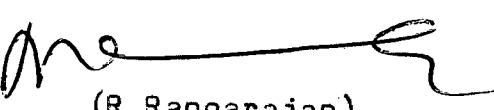
the result, the application is disposed of with the following directions:

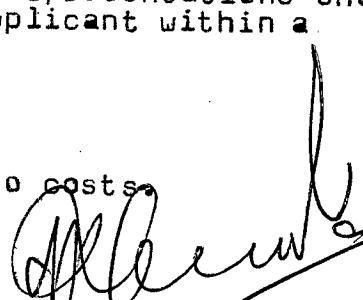
(i) The respondent-1 is directed to dispose of the representations made by the applicant at Annexure-IV and VI within a period of three months from the date of communication of a copy of this judgment, if necessary obtaining sanction from the appropriate authority in case it is found that relaxation of normal rules of recruitment is justified and required in this case.

(ii) If there is any vacancy in the cadre of LDC ~~exists~~ anywhere in India after accommodating the nominee of SSC who ~~have~~ reported for duty, the applicant should be given a posting to one of those vacancies on ad-hoc basis and he should be allowed to continue till a regularly selected candidate is posted.

(iii) The direction No.(ii) should be complied with within a period of two months from the date of receipt of a copy of this order. A speaking order by the respondent-1 ~~be served on the applicant within a~~ period of three months.

6 There will be no order as to costs.

  
(R. Rangarajan)  
Administrative Member

  
(A.V. Haridasan)  
Judicial Member

23.3.93