

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A.No.206/92

Tuesday, this the 23rd day of November, 1993.

SHRI AV HARIDASAN, JUDICIAL MEMBER  
AND  
S KASIPANDIAN, ADMINISTRATIVE MEMBER

D Girija Kumari,  
LDC(Casual),  
Naval Ship Repairs Yard,  
Cochin-4.

- Applicant

By Advocate Shri Varghese Myloth

vs.

1. The Flag Officer Commanding-in-Chief,  
Headquarters,  
Southern Naval Command, Cochin-4.
2. Captain Superintendent,  
Naval Ship Repair Yard,  
Cochin-4.
3. Smt E Sarojini,  
LD Clerk, Naval Store Depot,  
Cochin.
4. Smt KJ Lizy,  
LD Clerk, Headquarters,  
Southern Naval Command, Cochin-4. - Respondents

By Advocate Shri TPM Ibrahimkhan, ACGSC(for R-1&2)

O R D E R

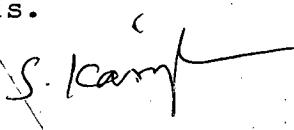
AV HARIDASAN, JUDICIAL MEMBER

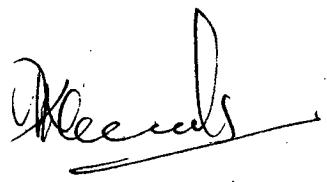
The applicant was duly selected in a process of selection held in the year 1984 for appointment on casual basis as Lower Division Clerk under the first respondent. She was informed by order dated 3.5.1984 Annexure-Al that she has been selected and kept in the waiting list for engagement. On 5.7.1986 she received a telegraphic order to report for duty on 8.7.1986. According to the applicant while she reported for duty, finding that she was pregnant, the respondents 1&2 did not allow her to join duty and told her that she could report for duty after delivery. She has also a case that immediately thereafter on 11.7.1986, she

made a written representation seeking permission to join duty immediately or at least immediately after delivery and that it was only by 12.11.1986 that she was given an offer to join duty which she accepted and joined on 17.11.1986. The grievance arose on account of the fact that the respondents 3&4 who were selected along with the applicant, but had joined earlier were regularised in service as LDCs by order dated 4.1.1992 at Annexure-A5. The case of the applicant is that if her service was counted from the date of her selection and if she had been allowed to join duty on 8.7.1986 when she reported for duty, she would have worked for at least the same period as the respondents 3&4 have worked and therefore, as she being ~~xxxxxx~~ senior to respondents 3&4 absorption of respondents 3&4 in service as LDCs before considering her case for absorption is arbitrary and violative of Articles 14 and 16 of the Constitution. The applicant has therefore filed this application praying for a declaration that for absorption in the regular cadre, the date of her selection should be taken into account, that she is entitled to be absorbed in the regular cadre above respondents 3&4 and for a direction to the respondents to regularise the service of the applicant with effect from the date of selection of the applicant in 1984. She has impugned the order of the Civilian Gazetted Officer Staff Officer for Flag Officer Commanding-in-Chief Annexure-A7 dated 13.1.1992 by which her representation at Annexure-A6 claiming absorption in service with effect from the date on which respondents 3&4 were absorbed has been turned down on the ground that the applicant though selected along with respondents 3&4 had joined only in November 1986. ~~xxxx~~ her request for allowing her to join duty after delivery <sup>being</sup> ~~being~~ acceded to by the competent authority. As respondents 3&4 have joined earlier, the respondents contend that the regularisation of the service of respondents 3&4 was quiet in order as it was done

in their turn according to their seniority. The respondents have contended that as the applicant would also to be considered for regularisation in her turn, there is no grievance for the applicant requiring redressal.

2. Having heard the counsel for the parties and having perused the pleadings and the documents on record, we are convinced that the applicant does not have a real grievance. If as a matter of fact the applicant had reported for duty on 8.7.1986 and was not permitted, undoubtedly in the normal course, the applicant would have protested and pursued the matter with the appropriate forum in case she did not get redressal at the hands of the department in response to her representation. The allegation made in the application that the applicant on 11.7.1986 made a representation stating that she was not permitted to join duty on 8.7.1986 when she has been reported <sup>flatly</sup> denied by the respondents. The applicant has not been able to establish by any proof that she had in fact made such a representation. Further there is absolutely no suggestion of malafides against respondents 1&2 as to why they should have denied the applicant an opportunity to join duty on 8.7.1986. Viewed in this context, the case of the respondents that the applicant was permitted to put off her joining on her request as she was in a fairly advanced stage of pregnancy appears to be more cogent and convincing. For all what is stated above, finding no merit in the application, we dismiss the same without any order as to costs.

  
(S KASIPANDIAN)  
ADMINISTRATIVE MEMBER

  
(AV HARIDASAN)  
JUDICIAL MEMBER