

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Original Application No. 208 of 2009

Thursday, this the 5th day of November, 2009

CORAM:

Hon'ble Mr. George Paracken, Judicial Member
Hon'ble Mr. K. George Joseph, Administrative Member

Bishnu Charan Choudhury, aged about 57 years,
 S/o (late) Shri NC Choudhury of Canal Street, Gate
 Bazar, PO : Berhampur - 760 001, Ganjam Dist.,
 Orrissa, presently working as a CEO, in the office of
 the Commanding Officer, INS Venduruthy, Naval Base,
 Cochin-682 004.

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Applicant

(Applicant in person)

V e r s u s

1. Union of India, represented by the Secretary to the Govt. of India, Ministry of Defence, South Block, New Delhi - 110 011.
2. The Chief of the Naval Staff, Integrated Headquarters of Ministry of Defence (Navy), Sena Bhavan, New Delhi - 110 011.
3. The Flag Officer Commanding-in-Chief, Headquarters, Southern Naval Command, Naval Base, Kochi - 682 004.

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Respondents

(By Advocate – Mr. Sunil Jacob Jose, SCGSC)

The application having been heard on 05.11.2009, the Tribunal on the same day delivered the following:

ORDER

By Hon'ble Mr. George Paracken, Judicial Member -


The prayer of the applicant in this OA is to direct the respondents to regularize his casual services for the period from 1.11.1980 to 2.7.1981

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without any break, with consequential financial benefits such as pension, arrears of second Assured Career Progression Scheme, etc. within a time limit.

2. The brief facts of the case are that the applicant was initially appointed as Civilian Education Instructor (CEI in short) a Group-C post at INS Chilka, District Khurdh, Orissa on 1.11.1980. Thereafter, he was regularized in the said capacity with effect from 3.7.1981. He was granted the first annual increment on 1.11.1981 taking into account his continuous service from 1.11.1980 without any break. However, the respondents continued to treat the aforesaid period from 1.11.1980 to 2.7.1981 as casual service. During the course of his service the applicant was promoted as Civilian Education Officer (CEO in short) in the pre-revised pay scale of Rs. 7500-12000/- in the office of Commanding Officer, INS Venduruthy, Naval Base, Kochi.

3. According to the applicant he came to know about the order of this Tribunal in OA 104 of 2008 dated 18.7.2008 (Annexure A-1) by which the casual services of similarly placed persons were directed to be regularized with all consequential benefits in accordance with law. He has, therefore, made the Annexure A-2(2) representation dated 13th October, 2008 inviting attention to the Ministry of Defence letter No.CP(SC)/4834/Court Case/NHQ/1375/DO (P) (N-II) dated 25th June, 1995 and requested the respondents to regularize his casual service period from 1.11.1980 to 2.7.1981 for reckoning his pensionary and other financial purposes. The



aforesaid representation was duly forwarded to the competent authority by the Annexure A-2 letter of the Commander, Deputy Logistics Officer (Civ) for Commanding Officer to the Flag Officer Commanding in Chief, Headquarters {for SSO (CP)}, Southern Naval Command, Kochi. As no reply has been received to his aforesaid representation he has approached this Tribunal by this Original Application seeking the following reliefs:

- "(i) Admit the Original Application;
- (ii) Direct the respondents to consider Annexure A2 on the basis of Annexure-A-1 within a time limit as may be found just and proper by this Hon'ble Tribunal;
- (iii) Direct the respondents to regularize the casual period of series from 01.11.1980 to 02.07.1981, (without any break) with consequential financial implication such as Pension, arrears of 2nd ACP etc., within a time limit as may be found just and proper by this Hon'ble Tribunal;
- (iv) Award costs of and incidental to this application;
- (v) Pass such other order or directions as deemed just, fit and necessary in the facts and circumstances of this case."

4. The respondents in their reply have not disputed the facts of his service under them. Their contention is that a number of cases of regularization of casual service had been considered by HQENC on court verdict or otherwise but the applicant had not made any attempt to approach the authorities at Vishakhapatnam or the court of law within its jurisdiction till his transfer to Kochi, despite he worked for 27 years in various units under ENC, Vishakhapatnam. As regards extension of benefits on the basis of Government of India order dated 26.6.1995 is concerned, they stated that in the light of the decision of the New Bombay Bench of this Tribunal and various other Courts, the Government has decided to consider granting of



the benefits in question to the non-petitioners who are non-industrial staff working under Navy. Accordingly, details of the eligible personnel had been called for from the Naval Commands and based on the said details, sanction for granting the benefits in question to 4313 non-petitioners of non industrial staff had been issued by Government as a one time measure. According to them the applicant was aware that the benefits had been received by others and he had not made any effort to approach the authorities in this regard. He has therefore, submitted that even though the applicant is similarly placed, since he has not approached the Court or the authorities in time he is not entitled to the benefits granted to the other persons.

5. We have heard the applicant in person and also heard learned counsel for the respondents. Admittedly the applicant was a casual labour and he was similar to other casual labours who have been granted benefits by the respondents on the directions of this Tribunal. The New Bombay Bench of this Tribunal in OA No. 306 of 1988, 516 of 1988 and 732 of 1988 ordered for the regularization of the casual services of similarly placed persons. The respondents have implemented the aforesaid directions vide Annexure R-1 letter dated 26.6.1995 which is reproduced as under:

"No. CP(SC)/4834/Court Case/NHQ/1375/DO (P)/D(N-II)
Government of India
Ministry of Defence
New Delhi, the 26 June 1995

The Chief of the Naval Staff
New Delhi - (25 copies)

Subject : IMPLEMENTATION OF JUDGEMENT OF CAT,



NEW BOMBAY BENCH IN OA NO. 306/88, 516/88
AND 732/88 REGARDING REGULARISATION OF
CASUAL SERVICE

Sir,

The undersigned is directed to refer to the judgements of the Central Administrative Tribunal, New Bombay Bench, mentioned above and to say that these judgments regarding regularisation of service from the date of initial appointment on casual basis, were implemented in respect of petitioners only vide Government of India, Ministry of Defence letters No. CP(SC)/4834/Court Case/NHQ/2309/D(N-II) dated 24 August 1994 and No. CP(SC)/4828/DV/Court Case/NHQ/3035/DO(P)/D(N-II)/94, dated 21 Nov 1994. The question of extending the benefits of the above judgements of the CAT, New Bombay Bench to the non-petitioners, who are similarly placed, has also been considered by the Government in accordance with CAT directives and it has been decided to implement the CAT, Bombay directions. The undersigned/therefore, directed to convey the sanction of the President to the grant of benefits as extended to the petitioners in the above O.As to the other similarly placed non-petitioners working in Naval Establishments belonging to Group 'C' and 'D' not exceeding 4313 employees (inclusive of those who have got such benefits by filing fresh petitions and implementation of the same by the Govt. after issue of letters mentioned above).

2. The expenditure incurred will be debitable to Major Head 2077, Minor Head 104(F) 3 Code Head of 621/03 of Defence Services (Navy) during 1995-1996 as 'Charged Expenditure'.

3. This issues with the concurrence of the Ministry of Defence (Fin/Navy) vide their u.o. No. 700/NA of 1995.

Yours faithfully,
Sd/-
(MN Sukumaran)
Desk Officer".

6. Based on the aforesaid letter Shri A.K. Suresh, Civilian Motor Driver (OG) and four others who were similarly placed persons has approached this Tribunal earlier in OA 104 of 2008. The said OA was also allowed and its operative part is as under:

"7. I have heard Advocate Mr.E.M.Joseph for the applicant and



Advocate Ms Jisha for Mr.TPM Ibrahim Khan SCGSC for the respondents. I do not find any merit in the aforesaid objections of the respondents. Undisputedly, the applicants in this OA are similarly placed as the applicants in the OA Nos.632/2002 and 421/2006 decided on 30.11.2004 and 1.11.2006 respectively. The respondents are not justified in not extending the same benefit to applicants in this OA also as they are similarly placed particularly in view of their own Annexure A 6 letter dated 26.6.1995. The respondents need not have dragged the applicants to this Court and on their own, they should have extended the benefits to them. I, therefore, allow this OA and direct the respondents to extend the benefits as ordered in OA-632/02 and OA 421/06 to the applicants in this OA also. The respondents shall regularise the period of casual labour service of the applicants with all consequential benefits in accordance with law. They shall also pass appropriate orders within three months from the date of receipt of copy of this order. There shall be no orders as to costs."

7. As there is no dispute that the applicant is similarly placed as the applicants in OAs 306 of 1988, 516 of 1988 and 732 of 1988 before the New Bombay Bench of this Tribunal as well as the applicants in OA 104 of 2008 before this Bench of the Tribunal, we allow this OA. The respondents are therefore, directed to regularize the period of casual services of applicant for the period from 1.11.1980 to 2nd July, 1981 with all consequential benefits in accordance with law. As prayed for by the applicant in this OA the aforesaid period shall be counted for the purpose of pension, arrears of second ACP, etc. Necessary orders in this regard shall be issued by the respondents within a period of two months from the date of receipt of a copy of this order. There shall be no order as to costs.



(K. GEORGE JOSEPH)
ADMINISTRATIVE MEMBER



(GEORGE PARACKEN)
JUDICIAL MEMBER