

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.212/2002.

Monday this the 13th day of January 2003.

CORAM:

HON'BLE MR.T.N.T.NAYAR, ADMINISTRATIVE MEMBER
HON'BLE MR.K.V.SACHIDANANDAN, JUDICIAL MEMBER

- | | | |
|-----|-----------------------|---|
| 1. | T.C.Sasidharan, | Assistant Store Keeper,
Naval Store Depot,
Southern Naval Command,
Cochin. |
| 2. | K.Hareendran, | -do- |
| 3. | K.Alexander, | -do- |
| 4. | V.Bhuvanendran, | -do- |
| 5. | K.S.Prathapan, | -do- |
| 6. | K.Ramakrishnan, | -do- |
| 7. | T.P.Kunjikrishnan, | -do- |
| 8. | N.Ashok Kumar, | -do- |
| 9. | P.U.Raju, | -do- |
| 10. | C.Y.Mohammed Basheer, | -do-Applicants |

(By Advocate Shri Shafik M.A.)

Vs.

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| 1. | Union of India represented by
Secretary to the Government of India,
Ministry of Defence, New Delhi. | |
| 2. | The Chief of Naval Staff,
Naval Headquarters, New Delhi. | |
| 3. | The Director of Logistics Support,
Naval Headquarters, New Delhi. | |
| 4. | The Flag Officer Commanding-in-Chief,
Southern Naval Command,
Cochin. | |
| 5. | The Chief Staff Officer, (Personnel),
Head Quarters, Southern Naval Command,
Cochin. | Respondents |

(By Advocate Shri C.Rajendran, SCGSC)

The application having been heard on 13th January 2003,
the Tribunal on the same day delivered the following:


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O R D E R

HON'BLE MR.T.N.T.NAYAR, ADMINISTRATIVE MEMBER

The applicants, 10 in number, have filed this O.A. seeking a declaration that the applicants are entitled to the benefit of Assured Career Progression (ACP for short) Scheme of the Government of India on the basis of the date of regularisation of their casual service, a direction to the respondents to fix the pay accordingly and to disburse the arrears with interest. Accordingly the applicants want to get the impugned A-1 order quashed.

2. As per A3 and A4 orders dated 26.11.1993 and 13.11.95 respectively, the applicants' casual service from the initial date of appointment was regularised by ignoring the various spells of breaks and granting consequential benefits except seniority with effect from the date of initial appointment. This was in compliance with A-2 order of this Tribunal in O.A.No.1408/92 and O.A.1409/92 dated 27.9.93. The applicants made representations to the 4th respondent for grant of benefit of ACP Scheme on the basis of regular service including the casual service so regularised as per A-3 and A4 orders. A-7 is the representation made by Shri TC Sasidharan, the first of the ten applicants. Similar representations were made by the other applicants too. The said representation was rejected as per A-1 order dated 27.12.2000 on the ground that the benefit of ACP Scheme could be given with reference to the date of absorption and not with reference to the date on which the regularisation of Casual Service would take effect. This is the order challenged against in this O.A. The O.A. has been opposed by the respondents by filing a reply statement in which they have reiterated the same stand.



3. When the matter came up for hearing, Shri Shafik learned counsel for the applicant pointed out that the very issue has been decided by this Tribunal in O.A.755/2000 dated 20.9.2002 involving the All India Naval Clerks Association and three other individual applicants. According to counsel, in the said order this Tribunal took note of an earlier order in O.A.545/95 dated 9.10.96 (A5), wherein it had been held that once regularisation of casual service was given, the qualifying service had to be computed with reference to the date of initial appointment itself. After considering the relevant facts arising in O.A.755/00, this Tribunal made a declaration that the applicants therein were entitled to ACP Scheme on the basis of the date of their initial appointment (including the casual service since regularised.) Accordingly, the grant of all consequential benefits of the scheme was ordered to be given. Learned counsel would submit that the facts being identical, the prayer may be allowed. Although in the reply statement an effort to contest the applicants' claim was made by the respondents, learned SCGSC did not have much argument to put forward against our findings in the earlier orders. We find that the earlier orders have now become final. The factual position in this case is not shown to be different. In view of this position, we are in respectful agreement with the Tribunal's findings in O.A.755/00 and we hold that the impugned A-1 order is liable to be set aside. Once the casual service is regularised ~~for the purpose of ACP~~ for the purpose of ACP the period of qualifying service/should be reckoned with effect from the date of initial appointment itself. We allow the O.A. with the following orders/directions.

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(i) The impugned A-1 order is set aside.

(ii) Applicants are entitled to the benefit of ACP Scheme by reckoning their qualifying service from the date of initial appointment. They are entitled to all the consequential benefits including monetary benefits arising there from.

(iii) An order in compliance with the above directions shall be issued within two months from the date of receipt of a copy of this order.

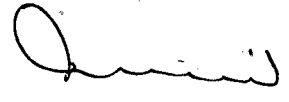
(iv) In our considered view there is no case for charging any interest.

4. Parties are left to bear their own cost.

Dated the 13th January, 2003.



K.V.SACHIDANANDAN
JUDICIAL MEMBER



T.N.T.NAYAR
ADMINISTRATIVE MEMBER