

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

Original Application No. 221 of 2011

FRIDAY, this the <sup>14</sup> day of January, 2013

**CORAM:**

**HON'BLE Mr. JUSTICE P.R. RAMAN, JUDICIAL MEMBER  
HON'BLE Mr. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

1. P.K. Kunhi, S/o. Attakkidavu,  
Aged 48 years, Laboratory Helper,  
Water Quality Testing Laboratory,  
Lakshadweep Public works Department,  
Sub Division, Union Territory of Lakshadweep,  
Chetalat : 682 554
2. K.K. Seethi, S/o. Sayeed Cheriyapura,  
Aged 53 years, Laboratory Helper,  
Water Quality Testing Laboratory,  
Lakshadweep Public works Department,  
Sub Division, Union Territory of Lakshadweep,  
Kiltan : 682 5558
3. T.K. Abdulla, S/o. Koyamma Puthiya Illam,  
Aged 51 years, Laboratory Helper,  
Water Quality Testing Laboratory,  
Lakshadweep Public works Department,  
Sub Division, Union Territory of Lakshadweep,  
Kadamat : 682 556
4. P.M. Kunji Seethikoya, S/o. Said Ismail Koya,  
Aged 44 years, Laboratory Helper,  
Water Quality Testing Laboratory,  
Lakshadweep Public works Department,  
Sub Division, Union Territory of Lakshadweep,  
Andrott : 682 551

... Applicants.

(By Advocate Mr. N. Unnikrishnan)

versus

1. Union of India represented by the Secretary to  
The Government of India, Ministry of Personnel &  
Public Grievances, Department of Personnel and  
Training, New Delhi – 110 001
2. The Administrator,  
Union Territory of Lakshadweep,  
Kavaratti : 682 555



3. The Secretary to the Administrator,  
Union Territory of Lakshadweep,  
Kochi – 682 003
4. The Superintending Engineer,  
Lakshadweep Public Works Department,  
Union Territory of Lakshadweep  
Kavaratti : 682 555
5. The Executive Engineer,  
Lakshadweep Public Works Department,  
Union Territory of Lakshadweep,  
Kadamath : 682 556
6. The Assistant Engineer,  
Lakshadweep Public Works Department,  
Union Territory of Lakshadweep,  
Kadamath : 682 556

... Respondents.

(By Advocate Mr. S. Radhakrishnan for R2-6 and  
Mr. Pradeep Krishna, ACGSC for R1)

This O.A having been heard on 18.12.2012, the Tribunal on 04.01.13  
delivered the following:

**ORDER**

**Hon'ble Mr. K. George Joseph, Administrative Member -**

In pursuance of the judgement of the Principal Bench of C.A.T. dated 16.02.1990 in the case of **Rajkamal and Others vs. Union of India and Others**, the Department of Personnel and Training had formulated Casual Labourers (Grant of Temporary Status and Regularization) Scheme of Government of India, 1993. Upon its introduction on 01.01.1993, the applicants who had joined the service of the Union Territory of Lakshadweep Administration as Casual Labourers in 1983, 1984 or 1988, as the case may be, were granted temporary status. While they were drawing a basic pay of Rs. 2790/- in the pay scale of Rs. 2550-3200, they were appointed as Helper in the Water Quality Testing Laboratory under the Lakshadweep Public Works Department (LPWD). Where upon, their basic pay was reduced to Rs. 2550/-

thereby causing a loss of Rs. 240/- per month. The representation filed by the 1<sup>st</sup> applicant was rejected by Annexure A-8 order dated 12.11.2008. Aggrieved, they have filed this O.A for the following reliefs:

- (i) Call for the records leading to issuance of the Annexure A-8;
- (ii) Declare that the applicants are entitled to protection of pay and other benefits they were drawing as Casual Labourers with temporary status prior to appointment as Helper;
- (iii) Declare that Annexure A-8 is bad in law;
- (iv) Issue appropriate order quashing Annexure A-8;
- (v) Issue appropriate order or direction to the respondents to issue necessary orders protecting the pay and other benefits the applicants were drawing prior to their appointment as Helper within a reasonable time;
- (vi) To grant such other reliefs as this Hon'ble Tribunal may deem fit, just and necessary; and
- (vii) To grant the cost of this Original Application.

2. The applicants submitted that the impugned order goes against the well settled principles of law as well as natural justice as the conferment of the Group-D post turned out to be a demotion causing recurring loss per month. It is well settled as evidenced by the judgements at Annexures A-17 to A-21 that higher basic pay and annual increments in the same pay scale the applicants were drawing cannot be reduced. Casual Labourers with temporary status were entitled to be appointed against two out of three vacancies of Group-D posts. There is no break in service. They were employed by the Administration. They were drawing the same pay scale. The applicants were not given notices.

3. The respondents in their reply statement submitted that the appointment of the applicants as Laboratory Helper was on direct recruitment from among

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the qualified candidates sponsored by the District Employment Exchange. The protection of pay will not be available to them as they were appointed directly without absorption. Those Casual Labourers who were granted temporary status were to be selected through regular selection process for Group-D posts to be brought on to the permanent establishment as per the scheme. This could be either by automatic absorption to the 2/3<sup>rd</sup> vacancies or by direct recruitment. If the temporary status casual labourer is absorbed/regularized he is entitled to protection of pay he was drawing on his regularization as Group-D employee. The 1993 Scheme does not speak about protection of pay of such casual labourers who are brought to the permanent establishment through direct recruitment. 'The applicants had opted for open competition for appointment to the post of Helper overriding their seniors having temporary status as they were newly appointed to the post of Laboratory Helper. Their past service cannot be counted and their pay cannot be protected. The applicants were called for interview for the post of Laboratory Helper which proves that their recruitment is direct recruitment. The judgements quoted by the applicants are not similar to the issue of the applicants herein. The subject matter in those cases is that of absorption and regularization of temporary status conferred casual labourers. The O.M dated 09.05.2008 (Annexure A-21) directed to protect the pay drawn by the casual labourers with temporary status on their absorption and not on their direct recruitment to a new post.

4. In the rejoinder statement, the applicants submitted that the respondents themselves admitted that the temporary status conferred casual labourers could be appointed to the post of Group-D either by absorption to

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the 2/3<sup>rd</sup> vacancies or by direct recruitment. The question considered in Annexure A-23 order in O.A. No. 440/06 and connected cases is whether at the time of regularization of casual labourers with temporary status in Group-D posts, they are entitled to protection of pay already drawn by them. It was declared that they are entitled to the protection of pay. The applicants did not apply for direct recruitment. They were requested to attend the interview. The benefits earned by them as temporary status employees cannot be denied when they are appointed by direct recruitment. The respondents could not point out any rule or law against the contention of the applicants. The 1993 Scheme provides that after rendering 3 years continuous service after conferment of temporary status, casual labourers would be treated at par with Group-D employees for the purpose of various benefits.

5. None entered appearance on behalf of the applicants and respondent No.1. Heard Mr. S. Radhakrishnan, learned counsel for the respondents Nos. 2 to 6 and perused the records.

6. The impugned order in this O.A was issued on 12.11.2008. The applicants have filed this O.A on 14.02.2011, submitting that it is within the limitation period prescribed in Section 21 of the Administrative Tribunals Act, 1985. Section 21 (1) (a) of the Administrative Tribunals Act, 1985, reads as under :

“21. Limitation.- (1) A Tribunal shall not admit an application, (a) in a case where a final order such as is mentioned in clause (a) of sub-section (2) of Section 20 has been made in connection with the grievance unless the application is made, within one year from the date on which such final order has been issued.”

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As per Rule 21 of the Administrative Tribunals Act, 1985, this O.A is hit by limitation as it was not filed within one year from the date on which the impugned order has been made. The applicants have not prayed for condonation of delay in filing this O.A within the period of limitation.. Therefore, the question of whether whether the applicants had sufficient cause for making the application within the period of limitation does not arise.

7. In the result, without going into the merits, this O.A is dismissed on the ground of being barred by limitation. No order as to costs.

(Dated, the 04<sup>th</sup> January, 2013)



K.GEORGE JOSEPH  
ADMINISTRATIVE MEMBER



JUSTICE P.R. RAMAN  
JUDICIAL MEMBER

cvr.