

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Dated the thirtieth day of September,
One thousand, nine hundred and eighty eight.

PRESENT

Hon'ble Shri S P Mukerji, Vice Chairman
and

Hon'ble Shri Ramakrishna Rao, Judicial Member

ORIGINAL APPLICATION No.238/86

1 N Radhakrishnan : Applicants
2 P J Cleetus :
:

-Vs-

1 The Flag Officer Commanding)
In-Chief, Head Quarters,)
Southern Naval Command, Cochin-4)
: Respondents
2 The Union of India rep. by)
the Secretary to Government)
Ministry of Defence, New Delhi)

Mr M Ramachandran : Counsel of Applicant

Mr PV Madhavan Nambiar, SCGSC : Counsel of Respondent

ORDER

Ch. Ramakrishna Rao, Judicial Member

This is an application filed under Section 19
of the Administrative Tribunals Act of 1985. The facts
giving rise to the application are briefly as follows:

2 The two applicants were initially engaged by
Respondent No.1 on 26.7.82 and 4.9.81 respectively as

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un-skilled labourers in the Naval Base, Cochin for two months. After the expiry of the period they were discharged. Their services were, however, being utilised by Respondent No.1 for short spells until 12.8.85. Despite their long service, though not continuously, they were not regularised as unskilled labourers. Aggrieved, the applicants have filed this application praying that the respondents be directed to consider their claims for employment to the cadre of unskilled labourers. Shri M Ramachandran, the learned counsel for the applicants contends that his clients were initially sponsored by the Employment Exchange and they should have been absorbed as casual labourers on regular basis without recruiting others as casual labourers. By overlooking the claims of the applicants, the respondents have meted out discriminatory treatment to his clients which is in violation of the right to equality guaranteed by Articles 14 and 15 of the Constitution of India.

3 Shri PV Madhavan Nambiar, the learned counsel for the respondents contends that the respondents have not in any way contravened the provisions of the Constitution of India. He elaborates his argument thus: The names of the applicants were sponsored by the Employment Exchange on telephonic requisition of unskilled labourers for short term requirements by

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Respondent No.1. For engaging casual labourers against regular vacancies a requisition is sent to the Employment Officer, Ernakulam for sponsoring names of suitable candidates. The Divisional Employment Officer, Ernakulam circulates the vacancies to all employment exchanges in the State. A consolidated list of candidates based on ~~xxx~~ the dates on which the candidates got themselves enrolled in the Employment Exchanges is forwarded to the employer concerned who requisitioned the same. In the present case, however, the applicants have not so far been sponsored by the Employment Exchange against notification for regular vacancies. The applicants were only sponsored by the Employment Exchange from time to time on 'spot submission' i.e. for specific short spells and not for regular employment. As such, the applicants have no claim for regular employments.

4 We have heard the rival contentions carefully. We find that the Employment Exchange sponsors candidates for filling up short term vacancies of unskilled labourers without reference to the dates on which such candidates got their names registered with the Employment Exchanges ~~xxx~~ to comply with the emergent demand of the employer, but in the case of regular vacancies which have to be filled up on long term basis, the names of eligible candidates are pooled from the several Employment Exchanges

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in the State and a consolidated list is prepared based on the dates on which the candidates got their names registered. The employer interviews the candidates so sponsored and selects the best among them. We see nothing objectionable in this procedure which aims at expeditious supply of names in the case of casual labourers for appointment on short spells. In our view, such candidates will not get any preferential treatment on account of ~~for having~~ the fact that they had already served the employer for a substantial period, though interruptedly, because all candidates eligible for appointment as casual labourers available in the State should be afforded a opportunity in the matter of sponsoring names for long term appointment of casual labourers. If this is not done, the rights of casual labourers who are appointed for short spells will eclipse the rights of all those in the State eligible for appointment as casual labourers on long term basis.

5. The applicants' case is ^{not} that other casual labourers engaged in the same manner have been regularised, but they have been left out. In view of this, the grievance of the applicant has no merit. In the result the application is dismissed.

6. There will be no order as to costs.


(Ch. Ramakrishna Rao)
Judicial Member
30.9.88


(S P Mukerji)
Vice Chairman
30.9.88