

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH
O.A.No. 254/97
Monday, this the 15th day of November, 1999.

CORAM:

HON'BLE MR AM SIVADAS, JUDICIAL MEMBER

HON'BLE MR G RAMAKRISHNAN, ADMINISTRATIVE MEMBER

1. V.P. Joseph Carpenter,
Central Institute of
Fisheries Nautical and
Engineering Training,
Dewans Road,
Kochi - 16.

2. V.S. Joseph - do -

3. M.V. Mathew - do -

...Applicants

By Advocate Mr. N.N. Sugunapalan

Vs.

1. The Senior Administrative Officer,
Central Institute of Fisheries
Nautical and Engineering Training,
Dewans Road, Kochi - 16.

2. The Director,
Central Institute of Fisheries
Nautical and Engineering Training,
Dewans Road, Kochi - 16.

3. Union of India, represented by its Secretary,
Ministry of Agriculture and Irrigation,
Department of Agriculture,
New Delhi.

...Respondents

By Advocate Mr. M.H.J. David J, ACGSC

The application having been heard on 15.11.99, the
Tribunal on the same day delivered the following:

ORDER

HON'BLE MR AM SIVADAS, JUDICIAL MEMBER

The applicants seek to set aside A-8, A-9 and A-10, to
declare that they are eligible and entitled to get all service
benefits including increment, leave, regularisation, seniority
and other benefits with effect from their respective dates of

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initial employment in service and to direct the respondents to grant all service benefits to them from their respective dates of initial appointment.

2. Applicants were initially appointed as Carpenters on casual basis on different dates on the recommendation of the Employment Exchange and passing a test and an interview conducted by the respondents. They were regularised in service on different dates in the year 1984. Subsequently, they were confirmed in service. The 2nd respondent as per order dated 9.5.1991 ordered to count half of their respective casual service for the purpose of pensionary benefit. Applicants were doing the very same duties from their initial employment as casual Carpenters and after their regularisation in service under the respondents. They submitted representation for counting their entire casual labour service for the purpose of pension and other benefits. That was turned down as per the impugned orders.

3. Respondents resist the O.A. contending that as per Government of India Decision (2) under Rule 14 of the Central Civil Services (Pension) Rules, 1972, applicants are entitled to get only half of their casual service counted for pensionary benefit. There is no provision to count casual service for the benefits of Pay increment, Seniority, etc. as per Rules. Their eligible service benefits has already been given to them as per Rules.

4. The learned counsel appearing for the applicants while hearing this O.A. submitted that the applicants are confining their relief only to count their entire service as casual labourers for the purpose of pension.

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5. As per the impugned orders, the applicants are entitled only for half of the casual service rendered by them for the purpose of pensionary benefit.

6. It is the admitted case of the applicants that they were initially appointed as Carpenters on casual basis. The learned counsel appearing for the applicants submitted that though the applicants were appointed as Carpenters on casual basis, they were doing the duties of regular Carpenters and their appointment was after a test and an interview. What the applicants now seek is to treat them, practically for all purposes, from the beginning, as appointed on regular basis and not on casual basis. There is no order of appointment produced by the applicants. There is no averment in the O.A. to the effect that the applicants were selected against any regular post under the respondents. There is also no material produced to show that regular posts were vacant at the time of the initial entry of the applicants.

7. A person who is appointed on casual basis, irrespective of the length of time, continues on casual basis. The applicants say that they were doing the same duties as regular Carpenters. But, the applicants have not stated as to what are the duties of Carpenters in the O.A. As per Decision (2) under Rule 14 of the Central Civil Services (Pension) Rules, 1972, only half of the casual service can be taken into consideration for pensionary benefit. It is by relying on the Central Civil Services (Pension) Rules, 1972 that the impugned orders have been passed.

8. The learned counsel appearing for the applicants drew our attention to the ruling in Direct Recruit Class II

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Engineering Officers' Association Appellants Vs. State of Maharashtra and others, Respondents(AIR 1990 SC 1607). There, the dispute was between Direct Recruits and Promotees. The said ruling has no application to the facts of the case at hand. In that particular ruling, there is absolutely nothing to the effect that entire casual service of a casual labourer should be counted for pensionary benefit.

9. The learned counsel appearing for the applicants drew our attention also to the ruling in Arun Kumar Rout and others Vs. State of Bihar and others (AIR 1998 SC 1477). That was not a case dealing with the question involved herein. Based on this ruling, the learned counsel for the applicants submitted that a sympathetic view is to be taken in this case. It has been held in Life Insurance Corporation of India, Appellant Vs. Asha Ramchhandra Ambekar and another, Respondents (1994 (2) SCC 718) and in State of H.P. and another, Appellants Vs. Jafli Devi, Respondent (1997 (5) SCC 301) that Tribunal cannot confer benediction impelled by sympathetic consideration.

10. The learned counsel appearing for the applicants drew our attention further to the ruling in Secretary, Haryana State Electricity Board Vs. Suresh and other etc. (AIR 1999 SC 1160). That was a case dealing with contract labour. No question of contract labour is involved in this case.

11. Another ruling brought to our notice by the learned counsel for the applicants is Shakuntala Devi Vs. State of H.P. and others (1989 (1) SLR 121). That was an extraordinary case in which the widow and two unmarried daughters of a person who died in harness while being employed

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as a daily rated employee continuously for a period of little over 29 years without being regularised were subjected to undeserved want since not a farthing by way of pensionary benefit was received by them. Here, it is not a case of a person who has worked throughout as a daily rated employee. The applicants, admittedly have been regularised and they have been confirmed also. The applicants do not stand on the same footing as the petitioners therein, widow and two unmarried daughters. In that case, the State Government was directed to consider in accordance with law and in conformity with the principles of equity, justice and good conscience and in the light of the observations therein, the question of granting to the deceased husband of the petitioner, the benefit of ex post facto regularisation of service. This ruling in no way helps the applicants.

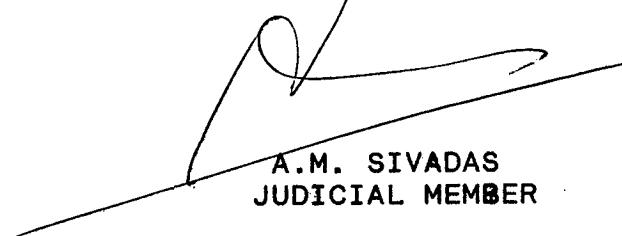
12. The learned counsel appearing for the applicants could not bring to our notice any ruling which enables the applicants to get a direction to count their whole service as casual labourers for the purpose of their pensionary benefit. The Rule applicable is Rule 14 of the Central Civil Services (Pension) Rules, 1972 and that has been rightly considered by the respondents while issuing the impugned orders. We do not find any ground to interfere with the impugned orders.

13. The O.A. is devoid of merits and is dismissed. No costs.

Dated this the 15th day of November, 1999.


G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER

nv/161199


A.M. SIVADAS
JUDICIAL MEMBER