

CENTRAL ADMINISTRATIVE TRIBUNAL: ERNAKULAM BENCH

Date of decision: 12.02.1990

Present

Hon'ble Shri NV Krishnan, Administrative Member

and

Hon'ble Shri AV Haridasan, Judicial Member

O.A.No.260/89

PG Ramachandran

: Applicant

Vs.

1 Union of India reft. by
the Secretary,
Ministry of Defence, New Delhi.

2 The Commandant,
District Pers & Admin Officer
Mukhyalaya, Tatrakshak Zilla No.4
Hqs. Coast Guard Dist No.4
Cochin- 682 001

: Respondents

Mr VP Mohan Kumar

: Counsel of Applicant

Mr PVM Nambiar, Sr. CGSC

: Counsel of Respondents

ORDER

Shri NV Krishnan, Administrative Member.

paid.

The applicant was a daily/Sweeper/Safaiwala-cum-

Scavenger in the Headquarters Coast Guard District No.4,
& on a casual basis
Cochin. His services have been ~~discontinued~~ with effect from
1.5.86. Therefore, he has prayed that the respondents be
directed to regularise his service in any Group D post
from 1.5.86.

2 The respondents have filed a reply stating that
the applicant was employed as a casual employee only.

~~as~~ There are no civilian posts available in the Coast
Guard Station at Cochin except for 3 Motor Transport

Drivers and 9 Sea-going crew of the Coast Guard Work Boat. All the posts in the Boat are filled up, excepting one post of Lascar for which qualified persons from the Employment Exchange are not available from Scheduled Tribe candidates as the post is reserved for them only. It is also contended that in the circumstances, the application has no merit.

3. The respondents have also filed an additional reply in which it was contended that the applicant had no right to submit this application before the Tribunal, as he is not covered by Sub-section 2 of Section 14 of the Administrative Tribunal's Act of 1985. However, in the light of the Full Bench decision of the Central Administrative Tribunal in Rehmatulla Khan and others Vs. Union of India and others (1989(2) SLJ (CAT) 293) "that although a casual labourer does not hold a civil post, he is in the service of the Union. He is essentially in the civil service of the Union. In this context, we hold the same view in respect of the civilian similarly employed in the Defence Services who is not a member of the Armed Forces of the Union" the plea that this petition does not lie to this Tribunal was given up by the respondents.

4. However, it was stated that as the Coast Guard District No. 4 was a new Station, casual labourers are to be engaged for certain types of work only. Now, there is

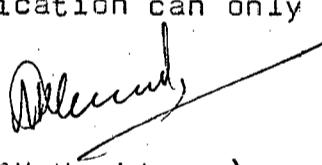
no civil post of Safaiwala at the Station as ~~as~~ similar posts have been included as service posts. They can be held by enrolled persons and enrolled persons ^{only} ~~who are~~ governed by the Coast Guard Act 1978 and the rules made thereunder. In other words, it is contended that the type of work which was being done by the applicant is now being done by officials for whom regular posts have been created, ~~but~~ in the Coast Guard Organisation, which, undoubtedly, is an Armed Forces of the Union, in regard to which the provision of the Administrative Tribunals Act of 1985 does not apply, as provided in Section 2(a) of that Act. No doubt, great stress was laid on the various Supreme Court decisions relating to the regularisation of casual labourers. It is also true that steps are being taken in this direction by all agencies where casual labours are engaged. However, ^{not} it is always necessary that, for such regularisation, posts should be created only on the civil side. If casual labours existed in a Naval, Military or Air Force Organisation, or any organisation of Armed Forces of the Union, it is not necessary that the posts to regularise casual labourers should necessarily be created as a civil post. It could as well be encadred in the Naval, Military or Air Force itself or in the Armed Forces of the Union as the case may be i.e., the situation in the present case.

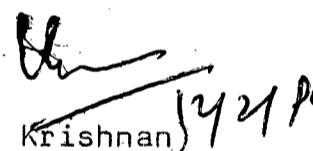
5. Therefore, while the applicant had a right to approach this Tribunal, we notice that as steps have been taken to create regular posts in the Armed Forces itself we cannot issue any direction to the Respondents in the light of the provisions of Section 2(a) of the Act. The respondents have also stated as follows:

"However, in case he is desirous of joining Coast Guard as an enrolled follower, he is at liberty to apply if he fulfills the pre-requisites for the same, as per laid down procedure, whenever there are vacancies and applications are called for. In that case the weightage of the fact that he has done similar job at this station can be a favourable point for this consideration. However in the foregoing contingency, he should be prepared for his subjection to the Coast Guard Act, 1978 and the rules thereunder since the Coast Guard is an Armed Force of the Union and all its service personnel are governed by the said Act and are liable to serve anywhere in India or abroad where-ever posted".

We note this submission and leave it to the applicant to take advantage of this assurance.

6. In the circumstances, we are of the view that this application can only be dismissed and it is so ordered.


(AV Haridasan)
Judicial Member


(NV Krishnan) 14/2/90
Administrative Member

12th day of February, 1990.