

CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH

Original Application No. 267 of 2011

Thursday, this the 9th day of February, 2012

CORAM:

Hon'ble Mr. Justice P.R Raman, Judicial Member
Hon'ble Mr. K. George Joseph, Administrative Member

**M.S. Gopi, Aged 56 years, S/o. Sankaran,
 Khalasi, Central Water Commission, Neeleswaram,
 Ernakulam District.** **Applicant**

(By Advocate – Mr. K. Shri Hari Rao)

V e r s u s

1. **Union of India, represented by its Secretary,
 Ministry of Water Resources, Shram Santhi Bhavan,
 New Delhi-1.**
2. **The Central Water Commission, Represented by its
 Chairman, Seva Bhavan, R.K. Puram, New Delhi-6.**
3. **The Chief Engineer, Southern Region,
 Central Water Commission, Singanallur, H.No.10,
 Ramakrishnanagar, Coimbatore-5.**
4. **The Superintendent Engineer, Central Water Commission,
 C&S.R. Region, Jala Saudha, II Floor, HMT,
 P.O., Bangalore-1.**
5. **The Executive Engineer, Central Water Commission,
 No. 27/1927A, Kashurbha Nagar, Kochu Kadavanthra,
 Kadavanthra PO, Kochi-20.** **Respondents**

(By Advocate – Mr. Varghese P. Thomas, ACGSC)

This application having been heard on 09.02.2012, the Tribunal on the same day delivered the following:

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ORDER

By Hon'ble Mr. Justice P.R Raman, Judicial Member -

The applicant entered the service of respondents as Seasonal Khalasi in 1987 and he had been working for long. He approached this Tribunal by filing OA No. 1552 of 1997 seeking appropriate direction for regularization of his service. He was the 6th applicant in the said OA. This Tribunal passed the following order:-

“9. In the light of the foregoing we direct the respondents to:

- (i) Finalise the seniority list of the seasonal Khalasis on the basis of their actual aggregate length of service in successive years after notifying the same first provisionally inviting objections if any from the concerned employees and then notifying the final seniority list after considering and finalising the objections filed if any from the concerned employees.
- (ii) Consider the applicants for appointment against the workcharged posts of Khalasis on regular basis based on their seniority without reference to the “scheme” in R-1(A) modified by R-1(B).
- (iii) Grant necessary relaxations in favour of the applicants from the provisions of the recruitment rules as required for (ii) above.
- (iv) Till regularisation, applicants be continued to be engaged as seasonal Khalasis.

The Original Application stands disposed of as above with no order as to costs.”

2. In the meantime by Annexure A-2 dated 29.11.1999 the applicant was issued with office order stating that persons mentioned therein who are in the rolls of the division as seasonal Khalasis are conferred with temporary status with effect from 1.6.1997 and the applicant's name is as against serial No. 15. The Annexure A-2 further reads that they will be governed by the scheme for grant of temporary status and consequent regularization as regular “work charged” Khalasis under the Central Water Commission as

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formulated by the Ministry of Water Resources. The grievance of the applicant is that many of them in Annexure A-2 list have been subsequently granted regularization with effect from 1997 whereas the applicant was only given regularization with effect from 2005 vide Annexure A-3 order. He has further case that he has been asked to work as Out Board Engine Driver (OBED in short) but the benefit attached to the said post was not given to him. In the circumstances he prays that he may be granted seniority as Khalasi from 1997 onwards till June, 2005 with all service benefits, pay and seniority and also grant him the pay, seniority and other consequential benefits as OBED from June, 2005.

3. The stand taken by the respondents is that he was regularized as a Khalasi only as per Annexure A-3 and he did not raise any objection thereto and at any rate at this belated stage he cannot be granted any relief. As such the Original Application is clearly barred by limitation.

4. We have heard both sides. The applicant seeks regularization with effect from 1997 which is clearly barred by law of limitation though he has been corresponding with the respondents by filing representations as contended by the counsel. It is settled law that mere sending representations after representations will not keep the cause of action alive once it is submitted out of time. But by Annexure A-9 dated 17.2.2011 which is an office order the applicant had been given increment benefit with effect from 1.8.2000, second increment from 1.8.2002 and 3rd increment on 1.10.2004. If he was not entitled to regularization retrospectively, with effect from 1.8.2000 the question of payment of increment does not arise. Therefore,

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even vide Annexure A-9 the regularization can be given to the applicant from 1.8.2000 as the department have themselves treated him as a regular employee giving increments with effect from 1.8.2000. Therefore, we declare that the applicant stands regularized with effect from 1.8.2000 the date on which he was given increment as per Annexure A-9 and all service benefits will accrue to him accordingly.

5. As regards his contention that he is entitled to regularization as OBED there is nothing on record to show that he was appointed as such in the said post at any time prior to Annexure R-12. The mere fact that he is working as OBED on his own accord will not entitle him to get the monetary benefits attached to the post unless he further proves that he was otherwise qualified to hold the post. According to the respondents the relaxation was granted by Annexure R-9 when only the applicant became qualified to work as OBED and accordingly he was considered for regularization as OBED by Annexure R-12. In the absence of any record to show that he was otherwise entitled to be appointed as OBED, we are of the view that the request of the applicant that he ought to have been regularized to the post of OBED even prior to Annexure R-12 is not tenable.

6. In the circumstances, the Original Application is allowed partly as above. No costs.

(K. GEORGE JOSEPH)
ADMINISTRATIVE MEMBER

"SA"

(JUSTICE P.R RAMAN)
JUDICIAL MEMBER