

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A.No.281/2002.

Monday this the 27th day of May 2002.  
CORAM:

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN  
HON'BLE MR.T.N.T.NAYAR, ADMINISTRATIVE MEMBER

P.K.Muraleedharan,  
Son of Shri Kunhan Bava,  
Ex.Casual Chowkidar,  
Integrated Fisheries Project,  
Kochi.

Applicant

(By Advocate Shri Gopalakrishnan Nair)

Vs.

1. Union of India, represented by  
the Secretary, Ministry of  
Agriculture, Department of  
Agriculture and Co-operation,  
New Delhi.
2. The Director,  
Integrated Fisheries Project,  
Kochi-16.

Respondents

(By Advocate Shri R.Prasanthkumar, ACGSC)

The application having been heard on 27th May 2002  
the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN

The applicant had been working as a Casual Labour, Chowkidar under the respondents from 5.7.86. While so, his services were terminated by A-1 order dated 30.10.90 for the reason that on the report of a theft, a criminal case against the applicant was registered by the Police and he was detained in Police custody for a period exceeding 48 hours. After the applicant was acquitted by the Judicial Magistrate of the First Class, Ernakulam, in the criminal case, he made a representation for re-instatement in service. As there was no response to his representation the applicant filed O.A. 130/94 which was disposed of with a direction to the 2nd respondent to consider and dispose of the representation of the applicant. In obedience

to the above order, Annexure A-2 order dated 18.2.94 was passed by the 2nd respondent stating that there was no question of re-instatement that there was no requirement of Casual Chowkidars then. It was however, indicated that his case for re-engagement would be considered as and when such engagement is found necessary in exigencies of service. As the applicant was not re-engaged thereafter, he approached this Tribunal by filing O.A.865/1994 which was also disposed of taking note of the statement made on behalf of the respondents directed the respondents to engage the applicant in the next vacancy of Chowkidar arising under them, provided there was no retrenched employee or fresh recruit with a superior claim. Alleging that the vacancy next arose in 1998 consequent on the retirement of Shri Appukuttan Pillai and that it was filled up by transfer of one P.S.Kumaran for defeating and delaying the applicant's re-engagement, the applicant made a representation on 6.10.2001 (A-4) requesting that he be engaged as Chowkidar. Finding no response the applicant filed this application for a direction to the 2nd respondent to appoint the applicant as Chowkidar forthwith and for a further direction to the 2nd respondent to consider and pass appropriate orders on Annexure A-4 representation.

2. When the matter came up for hearing on admission, Shri R.Prasanthkumar, Additional Central Government Standing Counsel took notice on behalf of the respondents and sought some time to file a statement on admission.

3. Today when the matter came up for hearing, Shri Prasanthkumar did not file any statement, but stated that, the applicant does not have any subsisting cause of action and that the application does not deserve to be admitted. Even going by

the averments made by the applicant in the O.A., the cause of action had arisen in the year 1998 when the post of Chowkidar which fell vacant in 1998, was filled up by transfer of Shri PS Kumaran, with a view to defeat and delay the applicant's re-engagement, argued the learned counsel.

4. On a scrutiny of the material placed on record and on hearing the learned counsel on either side, we find that the objection taken on behalf of the respondents has considerable force. The applicant did not hold a post on which he could claim re-instatement. However, his right for re-engagement in terms of the order of the Tribunal in O.A.865/94 was on the next arising vacancy. The next arising vacancy according to the applicant was filled up by transfer of Shri PS Kumaran in 1998 and the applicant did not challenge that action at that time. He chose to file a representation only on 6th October, 2001 when the cause of action had been barred by limitation according to the provisions of Section 21 of the Administrative Tribunals Act 1985.

5. In the light of what is stated above, the application is rejected as barred by limitation under Section 19(3) of the Administrative Tribunals Act, 1985.

Dated the 27th May, 2002.

  
T.N.T. NAYAR  
ADMINISTRATIVE MEMBER

  
A.V. HARIDASAN  
VICE CHAIRMAN

rv

A P P E N D I X

Applicant's Annexures:

1. A-1: The true copy of Order No. STY/9/90-91/5273 dated 30.10.90 issued by the Director, Integrated Fisheries Project, Cochin.
2. A-2: The true copy of Order No. A3/O.A130/94 dated 18.2.94 issued by the Director, Integrated Fisheries Project, Cochin.
3. A-3: The true copy of order dated 23.6.94 in O.A No. 865/94.
4. A-4: The true copy of representation dated 6.10.2001 submitted by the petitioner to the 2nd respondent.
5. A-5: The true copy of acknowledgment card evidencing receipt of representation by the 2nd respondent.

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