

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

....

O.A. 285/93 &

O.A. 2179/93

Monday, this the 17th day of January, 1994

Coram

Shri N.Dharmadan, Judicial Member

Shri S.Kasipandian, Administrative Member

O.A. 285/93

Applicants:

1. C.B.Suresh,  
Chenganath House,  
Ayyappan Kavu,  
Cochin-18.
2. Mrs. Mary Lijia,  
Valooran House,  
Narackal P.O.,  
Perumpilly,  
East Appangad.
3. K.Balakrishnan,  
LDC(Casual), HQSNC/  
Naval Base, Cochin.
4. P.V.Poulose,  
LDC(Casual) HQSNC/Naval Base, Cochin.
5. Mrs. Usha P.B.,  
LDC, HQSNC/Naval Base, Cochin.
6. Mrs. E.K.Sujatha,  
LDC, HQSNC/Naval Base, Cochin.
7. Mrs. P.K.Sudha,  
LDC, HQSNC/Naval Base, Cochin.
8. Mrs. Kairali P.B.,  
LDC, HQSNC, Naval Base, Cochin.
9. Mrs. P.P.Bhagyalakshmi,  
LDC, HQSNC/ Naval Base, Cochin.
10. C.K.Ramakrishnan,  
LDC, HQSNC/ Naval Base, Cochin.
11. Smt. K.C.Rajamma,  
LDC, HQSNC/Naval Base, Cochin.
12. T.Kunchu,  
LDC, HQSNC/Naval Base, Cochin.
13. R.Narasimhan,  
LDC, HQSNC/Naval Base, Cochin.
14. T.N.Shaji,  
LDC (Casual)/HQSNC/INS Venduruthy.
15. T.P.Nandaraj,  
LDC (Casual), HQSNC/Naval Base, Cochin.

16. Vijayan Paripoilan,  
LDC (Casual), HQSNC/Naval Base, Cochin.
17. Miss. Jinimol George,  
LDC (Casual), HQSNC/Naval Base, Cochin.
18. T.Rajendran,  
LDC (Casual), HQSNC/Naval Base, Cochin.
19. Mrs. C.P.S.Latha,  
LDC (Casual), HQSNC/Naval Base, Cochin.
20. O.Padmakumari,  
LDC (Casual), HQSNC/Naval Base, Cochin

By Advocate Shri M.R.Rajendran Nair.

Versus

Respondents

1. The Flag Officer Commanding in Chief,  
Head Quarter, Southern Naval Command,  
Kochi.
2. The Chief of Naval Staff, Naval Head  
Quarters, New Delhi.
3. Union of India, rep. by Secretary to  
Government, Ministry of Defence,  
New Delhi.

By Mr. K.Karthikeya Panicker, ACGSC

O.A.2179/93

Applicants:

1. M.N.Asokan,  
Muttathuparambil House,  
Kundannoor, Maradu P.O.,  
Ernakulam District.
2. M.K.Mohammed Koya,  
Manjippillil House,  
Cheruvattoor P.O.,  
Kothamangalam,  
Ernakulam District.
3. V.K.Jayadevan,  
Muhamma P.O.,  
Alappuzha District.
4. D.A.Appakunhi,  
Delampady House, Mulleria P.O.,  
Kaseragod District.
5. M.V.Varghese,  
Kulachirayil House,  
Pazhoor P.O., Piravom,  
Ernakulam District.
6. P.C.Sakthidharan,  
Puthanpurakkal House,  
Kumbalangi, Cochin-M.

7. K.P.Rappai,  
Kodakarakkaran House,  
Vallanikode,  
Muttithadi P.O.,  
(Via) Alagappanagar,  
Trissur District.

By Advocate Shri N.N.Sugunapalan

VERSUS

Respondents

1. Command Administration &  
Personnel Officer,  
Headquarters, Southern Naval Command,  
Cochin-4.
2. The Flag Officer Commanding-in-Chief,  
Headquarters, Southern Naval Command,  
Cochin-4.
3. The Chief of Naval Staff, Naval HQrs.,  
New Delhi.
4. Union of India rep. by Secretary  
to Government,  
Ministry of Defence,  
New Delhi.

By Advocate Shri Mathew G Vadakkal

O R D E R

N.Dharmadan, JM

These cases are heard together and disposed of by this common judgement on consent of parties. The facts and the question of law arising for consideration in these cases are also same.

2. For the disposal of these cases, we are discussing only the facts in OA 285/93. The applicants submit that they are casual LDCs working under the 1st respondent continuously for several years. Applicants 1 to 9 are continuing in service w.e.f. 10.7.87, 6.7.87, 20.7.87, 22.6.88, 22.6.88, 22.6.88, 2.1.89, 2.1.89 and 2.1.88 respectively. Applicants 10 to 19 are working w.e.f. 6.3.89 and 20th applicant from 9.3.89. There were artificial break, but for the same they are continuously working and they are entitled to regularisation in the light of the decisions of the Supreme Court referred to in the O.A. They have jointly filed this application for a declaration that they are entitled to regularisation w.e.f. the

date of their initial appointment in preference to their juniors with all consequential benefits.

3. The applicants' case is based on the earlier judgement of this Tribunal in OA 679/91 which is produced as Ann.A5.

The relevant portion of it reads as follows:

"We direct the respondents to regularise the services of all applicants as UDCs taking into account their seniority based on their initial engagement, as and when next permanent vacancies occur in their grades bearing in mind the observations of the Full Bench of the Tribunal in A Ramakrishnan Nair and others Vs. Union of India, (1991) 25 ATC 897. The respondents are further directed to allow their claim for all financial benefits such as fixation of pay, annual increments, calculation of leave, seniority and other arrears and grant them as their legal due upon their regularisation as per rules, from the dates of their initial engagement till they are regularised."

4. In the reply filed by the respondents, the respondents have admitted the prior services of the applicants; but according to them, number of seniors working under the 1st respondent are also entitled to regularisation. If the applicants are allowed to continue on the basis of the interim order, it would cause difficulty for regularising their seniors. However, they have undertaken that the applicants claim for regularisation would be considered in permanent posts in their turn as per their seniority as and when vacancies arise in future.

5. While admitting the application on 15.2.93, we passed an interim order directing to <sup>maintain</sup> status quo regarding continuance in their present assignment until further orders.

6. After hearing the learned counsel on both sides, we are satisfied that the question arising in this case is covered by the earlier judgement of this Tribunal in OA 679/91. It is settled proposition of law that the casual employees who are continuing in service for a long period, are entitled to regularisation based on their seniority after condoning the artificial break. Applicants are continuing in service for a

long period and hence the law laid down by the Tribunal would apply. In the light of this legal position and the earlier judgement of this Tribunal, the OA can be disposed of directing the Chief Staff Officer (Personnel Branch), the 1st respondent, to consider the claim of the applicants for regularisation in accordance with their seniority and turn as undertaken by the respondents in the reply statement. This shall be done without any undue delay. Following Annex.A5 judgement, we also make it clear that pending final decision the applicants shall be allowed to continue in their present assignment subject to the availability of work under the first respondent.

7. OA 2179/93 is also disposed of in the above line. In the result both the applications are allowed to the limited extent indicated above. No costs.

*Sd/-*  
(S.Kasipandian)  
Member (A)

*Sd/-*  
(N.Dharmadan)  
Member (J)

CERTIFIED TRUE COPY

Date ...11...2...94...



*Mammy*  
Deputy Registrar

*11/2/94*