

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO. 308 /2008

This the 10th day of June, 2009.

C O R A M

**HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER
HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER**

Benny Antony, Safaiwala
Naval Armament Depot
Aluva, Kochi
residing at Pullossery House,
Perumanoor, Kochi-15

.. Applicant

By Advocate Mr. Johnson Gomez & S. Biju

Vs

- 1 Union of India represented by Secretary
Ministry of Defence, South Block
New Delhi.
- 2 The Flag Officer Commanding in Chief
HQrs, Naval Base, Southern Naval Command
Kochi-682 004
- 3 The Staff Officer (Civilian Personal)
HQrs, Southern Naval Command
Kochi-682 004
- 4 The Chief General Manager
Naval Armament depot
Aluva, Kochi- 683 563. .. Respondents

By Advocate Mr. TPM Ibrahim Khan, SCGSC

The Application having been heard on 27.5.2009 the Tribunal delivered
the following

OR D E R

HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

The applicant challenges Annexure A-3 order dated 17.8.2006
rejecting his representation for grant of 1st ACP w.e.f the date of
regularisation of his casual service.



2 According to the applicant he joined the service of the 2nd respondent as Safaiwala on 5.8.1985 and his services were regularised w.e.f. the same date with all benefits like leave, annual increment, pay etc. The grievance of the applicant is that despite several orders of the Tribunal on the issue, he has not been granted 1st ACP benefits reckoning the regularisation of casual service w.e.f. 5.1985..

3 The respondents in their reply statement submitted that the applicant was engaged as Safaiwala on casual basis w.e.f. 5th August, 1985 and absorbed against regular post only on 1st July, 1991. Later on, the casual service rendered by the applicant from 5th August, 1985 to 30th June 1991 had been regularised and extended all the consequential benefits flowing from regularisation. He was granted 1st ACP on 1.7.2003 on completion of 12 years service from 30.6.1991, the date of absorption against a regular post. The applicant cannot be granted ACP from the date of regularisation of casual service under the extant rules.

Since there were contradictory statements in the reply statement, the respondents were directed to produce the order by which the casual service of the applicant was regularised. The respondents filed an affidavit and produced extracts of entries made in the Service Book. They affirmed that the applicant joined the service at INS Kattabomman Thirunelveli on 5.8.1985 and his services were regularised w.e.f that date and later he was transferred to Naval Armament Depot, Alwaye on 26.7.2004.

4 We have heard learned counsel appearing for the parties and perused the documents produced before us.



5 The case of the applicant is that though his casual service was regularised by proceedings dated 21.8.1995 wherein it is provided that he is entitled to count the service w.e.f. 5th August, 1985, the benefit of the decisions of the Tribunal in identical cases was not extended to him. The regularisation of service w.e.f. 5th August, 1985 is corroborated by the extracts of service records of the applicant produced by the respondents which is extracted below:

"Appointed as Safaiwala w.e.f. 5.8.95 in the pay scale of Rs. 196-3-220-EB-3-232

Casual service regularised w.e.f. 5.8.1985 in accordance with GOI MOD letter CP(SC)/4854/DO(P)/DCN-II dated 26th January, 1995 and KBN CE Order No. 40/95 dated 7.12.95.

Enrolled as a member of CGEGIS w.e.f. August, 85."

The respondents have also produced copy of Order No. 26/95(NI) dated 21 Aug. 95 regularising temporary casual services rendered by the civilian personnel. The applicant is at Sl. No. 41 with date of initial appointment on Ty.(Cl) basis as 5.8.1985 and date of regularisation on the same date.

It is evident from the above records that the service of the applicant was regularised w.e.f. 5.8.1985 while he was working at INS Kattabomman, Thirunelveli and later he was transferred to Naval Armament Depot, Alwaye under Southern Naval Command on 26.7.2004.

6 The Tribunal in a number of identical cases declared that the applicants therein are entitled to be granted benefits under the ACP scheme taking into account the service from the date of regularisation of their casual service. But it was not extended to the applicant. The applicant has relied on one of such judgments of the Tribunal in

74

O.A.755/2000. The Tribunal in that O.A. held as follows:

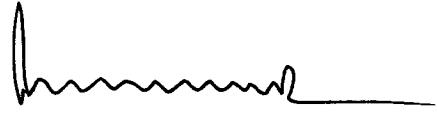
"In the conspectus of the facts and circumstances, we allow the O.A. and set aside the impugned order Annexure A-1 dated 30.5.2000 and declare that the applicants are entitled to ACP Scheme on the basis of their regularisation from the date of their initial appointment (including the services rendered on casual basis). The respondents are directed to grant all consequential benefits of the scheme, in terms of this order within three months from the date of receipt of a copy of this order...."

The Tribunal allowed the O.A. declaring that the applicants therein are entitled to benefits under the ACP Scheme on the basis of their regularisation from the date of their initial appointment including the services rendered on casual basis.

7 In view of the above, we are of the considered view that the applicant is similarly situated like the applicants in O.A. 755/2000 and similar cases and is therefore, entitled to the reliefs prayed for in the O.A.. Accordingly we follow the judgment of the Tribunal in O.A755/2000, allow the O.A., set aside and quash Annexure A-3. We declare that the applicant is entitled for reckoning the casual service w.e.f 5.8.1985, i.e. the date of regularisation, for the purpose of grant of financial upgradations under the ACP Scheme. We direct the respondents to grant 1st ACP to the applicant counting service from the date of regularisation in service i.e. 5.8.1985. This shall be done within four months from the date of receipt of this order. No costs.

Dated 10th June, 2009


K. NOORJEHAN
ADMINISTRATIVE MEMBER


GEORGE PARACKEN
JUDICIAL MEMBER