

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O. A. No.

4

199 2

DATE OF DECISION 21.9.92

P.P. Mary and six others Applicant (s)

Mr. P. Sivan Pillai Advocate for the Applicant (s)

Versus

Union of India through Secretary  
Ministry of Agriculture & Cooperation Respondent (s)  
Deptt. of Cooperation, New Delhi and another

Mr. George C.P. Tharakan, SC GSC Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. P.S. Habeeb Mohamed, Administrative Member

The Hon'ble Mr. N. Dharmadan, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? No
3. Whether their Lordships wish to see the fair copy of the Judgement? No
4. To be circulated to all Benches of the Tribunal? No

JUDGEMENT

Mr. N. Dharmadan, Judicial Member

Applicants who were initially engaged as casual process workers are aggrieved by the refusal of the respondents to grant them the benefit of Annexure-I circular in the matter of counting their continuous service in the regular service for grant of retirement benefits. and services  
Details of their original appointment/as given in para 2 of the Original Application are extracted below:

| Name                | Date of initial engagement as Casual Worker | Date of regular absorption |
|---------------------|---|----------------------------|
| 1. P.P. Mary        | 11.12.1967                                  | 13.8.84                    |
| 2. P.V. Apolny      | 7.1.1969                                    | 15.7.89                    |
| 3. P.V. Tresia      | 7.4.1969                                    | 15.7.89                    |
| 4. C.A. Pankajakshi | 17.1.69                                     | 15.7.89                    |
| 5. C.P. Thilothama  | 25.1.69                                     | 15.7.89                    |
| 6. K. Mandakini     | 15.1.69                                     | 15.7.89                    |
| 7. N.A. Annamma     | 7.4.69                                      | 15.7.89                    |

2. Applicants content that ever since their initial engagement they were continuously working till their regular absorption and they have satisfied all the conditions in Annexure-I circular which reads as follows:

"Under Article 368 of the CSR, period of service paid from contingencies do not count as qualifying service for pension. In some cases, employees paid from contingencies are employed in types of work requiring services as whole-time workers and are paid on monthly rates of pay or daily rates computed and paid on monthly basis and on being found fit brought on to regular establishment. The question whether in such cases paid from contingencies should be allowed to count for pension and if so to what extent has been considered in the National Council and in pursuance of the recommendation of the Council the President is pleased to decide that half the service paid from contingencies will be allowed to count towards pension at the time of absorption in regular employment subject to the following conditions viz:

- (a) Service paid from contingencies should have been a job involving whole-time employment (and not part-time for a portion of the day)
- (b) Service paid from contingencies should be in a type of work or job for which regular posts could have been sanctioned e.g. mails, chowkidars, khalasis, etc.
- (c) The service should have been one for which the payment is made either on monthly or daily rates computed and paid on a monthly basis and which though not analogous to the regular scale of pay should bear some relation in the matter of pay to those being paid for similar jobs being performed by staff in regular establishments.
- (d) The service paid from contingencies should have been continuous and followed by absorption in regular employment without a break.
- (e) subject to the above conditions being fulfilled, the weightage for past service paid from contingencies will be limited to the period after 1st January, 1961 for which authentic records of service may be available."

3. Applicants submitted Annexure-A-2 representation for getting benefits of counting half of their service for grant of pension and other benefits. This was rejected by Annexure A-3 memo dated 17.7.91. Applicants are challenging Annexure A-3 and similar orders received by them. They also pray for a direction to respondents to count half of their casual service for grant of pensionary and other benefits in terms of Annexure A-1.

4. In the reply statement, respondents have admitted applicants' engagement but contended that from 1982 onwards they were engaged on daily rated basis and hence they cannot be granted reliefs as envisaged in Annexure-A-1 only from 1982 onwards. It is also submitted that the applicants were casual labourers and they are not paid from contingencies. Applicants were initially engaged on work on piece rates and later on casual basis. Till 1982 their engagement were below 180 days in an year. Therefore, the benefits of Annexure A-1 cannot be extended to the applicants for counting half of their service before 1982, for pensionary benefits as claimed by them.

4. Applicants filed a rejoinder denying the statements in the reply. They have produced Annexure A-5, & A-6 in support of their contention that they are paid from contingency bills even during their casual employment. They have also produced Annexure A-7 to establish that there are 50 vacancies of process workers in the pay scale of Rs. 750-940 in the Department and the applicants have been regularly engaged in those posts.

5. Learned counsel Shri P. Sivan Pillai appearing on behalf of the applicants relying on the materials produced in this case submitted that applicants have satisfied all the conditions prescribed in Annexure A-1 for counting half of their service from their initial appointment and grant of pensionary benefits on that basis. Since this matter has been disputed by the respondents, the case of <sup>the applicants</sup> requires a further detailed examination at the level of the second respondent before <sup>taking</sup> a final decision. The apprehension of the applicants is that they would be denied the benefit of Annexure A-1 circular at the time of their retirement and their service prior to absorption would not be counted for grant of pensionary and other benefits. Hence, they submitted

that proper examination is required notwithstanding the order Annexure A-3 passed in this case.

6. Since applicants have produced Annexures A-5 to A-7, the second respondent is to examine the question whether applicants have been given engagement by making payment from contingency bills from their initial engagement as contended by the applicants. If they have satisfied all the conditions referred to in Annexure A-1, they are eligible for counting half of their service before regularisation for grant of pensionary benefits as claimed by them. From Annexure A-7 it is clear that posts are available for absorption of the applicants as process workers and regularisation as admitted by respondents in the reply statement.

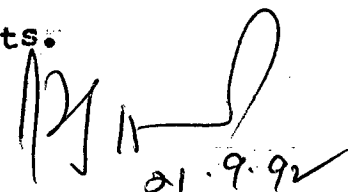
7. In the light of the documents produced by the applicants and the observations made in this judgment, a thorough verification of the service records are necessary. Accordingly, we quash Annexure A-3 impugned order and direct the respondents to consider Annexure A-2 in the light of Annexure A-1 and Annexure A-5 to A-7 documents produced by the applicants, afresh. If the respondents find that applicants satisfy all the conditions stipulated in Annexure-A-1, they may be granted pensionary and other benefits as and when they retire.

8. The application is accordingly disposed of.

9. There will be no order as to costs.

  
(N. Dharmadan)  
Judicial Member

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(P.S. Habeeb Mohamed)  
Administrative Member