

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.316/1993

Wednesday this the 8th day of December, 1993

CORAM

THE HON'BLE MR.JUSTICE CHETTUR SANKARAN NAIR, VICE CHAIRMAN
THE HON'BLE MR.P.V.VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

M.B.Mukundan, L.D.Clerk
N.S.R.Y, Naval Base
Kochi. ... Applicant

(By Advocate Mr.V.V.Nandagopal)

Vs.

1. Union of India, represented by the Secretary to Government, Ministry of Defence, Govt. of India, New Delhi.
2. The Chief of Naval Staff, Naval Headquarters, New Delhi.
3. The Flag Officer Commanding in-Chief Southern Naval Command, Kochi. ... Respondents

(By Advocate Mr.K.Karthikeya Panicker, ACGSC)

O R D E R

CHETTUR SANKARAN NAIR(J), VICE CHAIRMAN.

Applicant seeks a declaration that he is entitled to seniority from 2.4.83 the date of his initial appointment as Casual Stenographer. He also claims the benefit granted to applicants in O.A.608/89 and O.A.434/89. It is his further case that persons similarly situated namely C.K.Rajeswari and Suja Xavier were granted regularisation with retrospective effect while he was not. By Annexure.A3 respondents rejected the claim of applicant in this regard.

2. Standing Counsel for respondents made an attempt

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to suggest that applicant had waived the claims now advanced. In answer, learned counsel for applicant invited our attention to the decision in Central Inland Water Transport Corporation and another Vs. Brojo Nath Ganguly and Tanu Kanti Sen Gupta and another (AIR 1986 SC 1571) and submitted that an undertaking obtained by exercising overwhelming authority available to a superior officer, cannot stand in the way of an official from claiming such benefits as are available to him in law.

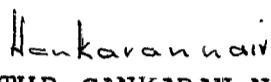
3. We find that many of the contentions of applicant remain unanswered. Respondents must consider whether the cases of C.K.Rajeswari and Suja Xavier are similar to the case of applicant. Treating equals unequally and unequals equally, would be violative of Article 14. Respondents should also examine whether applicant is similarly situated as the applicants in O.A.608/89 and O.A.434/89. We quash Annexure A3 and direct respondents or such of them as is competent to consider the case of applicant with specific reference to the case of the two other employees mentioned above and also in the light of the two decisions hereinbefore mentioned. Applicant if advised may submit a detailed representation appending copies of the judgment(s) relied on by him within one month from today. The competent authority will pass a reasoned order thereon within four

months of the date of receipt of the representation bearing in mind the principles enunciated in the decisions aforementioned and also in the decision in Central Inland Water Transport Corporation and another Vs. Brojo Nath Ganguly and another reported in AIR 1986 SC 1571.

4. Application is allowed as above. No costs.

Dated the 8th December, 1993.


P.V. VENKATAKRISHNAN
ADMINISTRATIVE MEMBER


CHETTUR SANKARAN NAIR(J)
VICE CHAIRMAN

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