

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A.No.367/93

Monday, this the 21st day of February, 1994.

SHRI N DHARMADAN, MEMBER(J)

SHRI S KASIPANDIAN, MEMBER(A)

1. PS Joseph,
LD Clerk, Headquarters,
Southern Naval Command,
Kochi.
2. P Rajan,
LD Clerk,
Directorate of Administration(Stores),
Naval Headquarters,
New Delhi.
3. P Ramachandran,
LD Clerk,
Directorate of Naval Plans,
Naval Headquarters,
New Delhi.
4. KP Asoka Kumar,
LD Clerk,
Directorate of Civ. Personnel,
NG Section, D-II Wing,
Naval Headquarters,
New Delhi.
5. MG Thankachan,
LD Clerk,
Naval Store Depot(Air Stores),
Southern Naval Command,
Kochi.
6. JP Kurian,
LD Clerk,
Naval Store Depot,
Southern Naval Command,
Kochi.
7. K Unnikrishnan,
LD Clerk,
Headquarters,
Southern Naval Command,
Kochi.

- Applicants

By Advocate Mr VV Nandagopal Nambiar

Vs.

1. Union of India, represented by
Secretary to Government,
Ministry of Defence,
New Delhi.
2. The Chief of Naval Staff,
Naval Headquarters, New Delhi.

- Respondents

3. The Flag Officer,
Commanding in Chief,
Southern Naval Command,
Naval Base, Kochi-4.

4. The Chief Staff Officer,
(Personal Administration),
Southern Naval Command,
Naval Base, Kochi-4.

- Respondents

By Advocate Mr TPM Ibrahimkhan, ACGSC

O R D E R

N DHARMADAN, MEMBER(J)

Seven applicants have jointly filed this application under Section 19 of the Administrative Tribunals Act for a direction to the respondents to grant them the benefits of Annexure-A2 judgement of this Tribunal in OAs-609 and 434 of 1989 and regularise them in service from the initial date of appointment as casual employees after condoning the breaks in service with all consequential benefits.

2. The applicants were regularly appointed as Lower Division Clerks in the various units of Southern Naval Command. Prior to the regular service, they commenced service as casual employees having artificial breaks. After regularisation, applicants 2,3&4 were sent on deputation to Naval HQ, New Delhi for a period of four years, but after the completion of the period of deputation, they will be repatriated to the Naval Command, Kochi where their lien and seniority are being maintained. They submitted that they are all similarly situated like the applicants in OAs-434 and 609 of 1989. Since their request for granting the service benefits in the light of the principles laid down by this Tribunal has not been granted, they have filed representations and approached this Tribunal. Annexure-A3 is the representation filed by the first applicant. Similar representations have been filed by the other applicants also.

3. Respondents have raised two objections: (i) the application is belated and is liable to be rejected and (ii) the

applicants 2,3&4 are now working in Delhi and hence their case is not covered by Annexure-A2 judgement.

4. Both the objections are untenable on the facts and circumstances of this case. After considering the contentions, we are satisfied that there is no substance in the objection that the application is belated and barred by limitation. Annexure-A2 judgement was pronounced by this Tribunal on 20.8.1990 and the applicants filed their representations immediately when they came to know of the judgements and the benefits arising therefrom. In fact this application was admitted after serving a copy of the OA on the learned counsel for the respondents. He has not raised any such objection regarding the bar of limitation at that time. However, having regard to the facts and circumstances, we are of the view that the OA cannot be rejected on the ground of bar of delay and laches. According to us, there is no delay on the part of the applicants.

5. Regarding the second objection as indicated above, applicants 2, 3&4 are now working at Delhi on deputation for a limited period of four years. They have their lien and seniority at Kochi. They would come back to their parent department after completion of the period of deputation. Their service details are maintained in the office of the Southern Naval Command at Kochi. Hence we overrule the contention that the applicants 2, 3&4 are not covered by the Annexure-A2 judgement.

6. Respondents have not distinguished the facts of this case so as to enable us to hold that the applicants are not similarly situated like the applicants in Annexure-A2 judgement. Hence considering the contention of the applicants, we are satisfied that the applicants are similarly situated like the applicants in the cases referred to above. The representations submitted by the applicants have been disposed of by Annexure-A4 order dated 11.12.1992. Reason given is as follows:

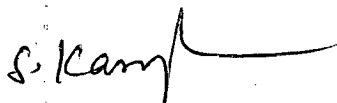
"It has been intimated that the benefit of Court judgement to non-petitioners has been rejected by the Govt. Therefore, the benefit of Court judgement can be extended only to the petitioners, notwithstanding the above Naval Headquarters is taking up the case gain with the Govt."

7. In a number of similar cases, this Tribunal has taken the view that the administrative authority should grant the benefit of declaratory judgements to other similarly situated persons without taking a technical stand that such judgements will be applicable only to the parties in that case. The reason given in the impugned order that they are 'non-petitioners' and hence the judgement would not apply, is unsatisfactory and not convincing. The order passed rejecting the request of the applicants, who are similarly situated like the applicants in those cases cannot be upheld.

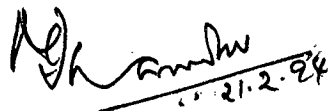
8. In this view of the matter, we follow our earlier judgement and quash Annexure-A4 and dispose of the application directing the respondents 3&4 to grant the benefit of the Annexure-A2 judgement to the applicants in this case also. This shall be done within a period of four months from the date of receipt of a copy of this order. We make it clear that the question of seniority of the applicants is left open to be agitated by them separately, if so advised.

9. The OA is allowed as above. No costs.

Dated, the 21st of February, 1994.



(S KASIPANDIAN)
MEMBER(A)


21.2.94

(N DHARMADAN)
MEMBER(J)

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