

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA 376/97

Tuesday the 4th day of January 2000.

CORAM

HON'BLE MR A.M.SIVADAS, JUDICIAL MEMBER
HON'BLE MR G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

K. Yesodharan
S/o Late Kesavan
Upper Division Clerk
Department of Light Houses & Light Ships
Kochi.

...Applicant.

(By advocate Mr T.C.Govindaswamy)

Versus

1. Union of India through the
Secretary to the Government of India
Ministry of Surface Transport
Transport Bhavan
New Delhi.
2. The Director General
Light House and Light Ships
East Block X
Level IV, R.K.Puram
New Delhi.
3. The Director (Regional)
Department of Light Houses & Light Ships
Gandhinagar, Kadavanthra
Kochi-20.
4. The Fortress Commander
Andaman & Nicobar Islands
Port Blair.

...Respondents.

(By advocate Mr Varghese P. Thomas, ACGSC)

The application having been heard on 4th January 2000, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR A.M.SIVADAS, JUDICIAL MEMBER

Applicant seeks to quash A-10, to declare that he is entitled to count the period of his service rendered under the fourth respondent from 28.11.70 to 6.3.73 for the purpose of fixation of pay and pensionary benefits and to direct the respondents accordingly.

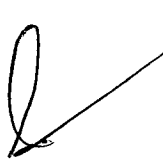
2. The applicant says that he was initially appointed as a temporary Lower Division Clerk on 28.11.70 in the office of the Naval Officer-in-Charge, Port Blair (now redesignated as Fortress Commander), the fourth respondent. While working

under the fourth respondent, in response to a notification inviting applications for appointment to the post of LDC under the respondents 1 to 3 he applied through proper channel, got selected and was relieved by the fourth respondent. He joined the new post on the forenoon of 7.3.73. He submitted a representation to the authorities concerned for considering his service rendered under the fourth respondent also for the purpose of fixation of pay and pension. That was rejected as per A-10.

3. Respondents say that the applicant was employed under the Organisation of Fortress Department, Port Blair as LDC purely on temporary/casual labour basis with intermittent breaks in service with effect from 30.11.70. Consequent to his selection in the Directorate of Lighthouses and Lightships, Port Blair, he was relieved with effect from 7.3.73. He was appointed as Lower Division Clerk as a fresh recruit with effect from 7.3.73 in the office of the Director (R), Department of Lighthouses and Lightships, Port Blair. The applicant's appointment was purely casual in nature and his service under the fourth respondent cannot be taken into consideration for the purpose of fixing his pay and pension.

4. The question for consideration is whether the period during which the applicant worked under the fourth respondent can be taken into consideration for the purpose of fixing his pay and pension.

5. The specific case of the applicant is that he was appointed as a temporary LDC on 28.11.70 under the fourth respondent. This is not specifically denied by the respondents. What is stated in the reply statement is that the applicant was employed under the fourth respondent purely on temporary/casual labour basis with intermittent breaks in service w.e.f.




30.11.70. R3(a) is relied on by the respondents. There it is stated that the applicant was employed under the fourth respondent as LDC purely on temporary/casual basis with intermittent breaks in service with effect from 30th Nov. 1970. From R3 also it cannot be said conclusively whether the applicant, according to the respondents, was working on temporary basis or on casual basis.

6. We asked the learned counsel appearing for the respondents whether the applicant was working on temporary basis or on casual basis. No definite answer was given. In the absence of any specific denial of the specific averment that the applicant was appointed under the fourth respondent as a temporary LDC and it is specifically shown in R3(a) that he was working with intermittent breaks in service and the same is reiterated in the reply statement, it is to be taken that the particular period during which the applicant had worked under the fourth respondent can be reckoned for the purpose of pension. A-5, the order passed by the Calcutta Bench of this Tribunal in OA 23 of 1987 and OA 24 of 1987 supports this view.

7. In A10 also it is not specifically stated whether the applicant was employed on temporary basis or on casual basis. What is stated therein is that the applicant was employed as a temporary/casual LDC. The respondents cannot take such a stand. While passing an order on the representation of the applicant, the respondents should have avoided vagueness and should have stated with preciseness and clarity what was the nature of the employment of the applicant under the 4th respondent.

8. Accordingly A10 is quashed to the extent of denying reckoning the service of the applicant under the fourth respondent for the purpose of pensionary benefits. It is

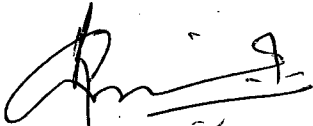


declared that the applicant is entitled to reckon the period of service rendered under the fourth respondent from 28.11.70 to 6.3.73 for the purpose of pensionary benefits. Respondents are directed to reckon the said service for pensionary benefits due to the applicant.

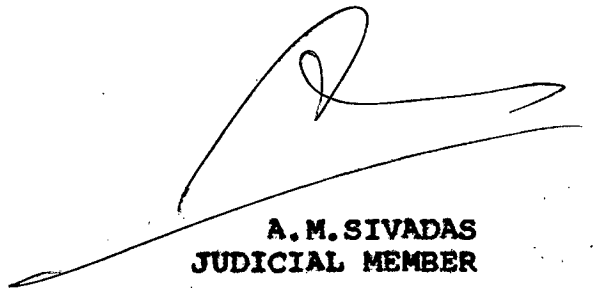
Original Application is disposed as above.

There is no order as to costs.

Dated 4th January, 2000.



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER



A. M. SIVADAS
JUDICIAL MEMBER

aa.

Annexures referred to in this order:

A10: True copy of order No. I-3/74/77-Estt dated 14.2.97 issued by the third respondent.

R3(a): True copy of the letter No. 280/11 dated 28.8.96 of the fourth respondent.

A-5: True copy of the common judgement in OA No. 23/ASN of 87 and 24/87 delivered by the CAT, Calcutta Bench dated 17-5-88.