

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA 385/2000

Wednesday the 12th day of April, 2000

CORAM

HON'BLE MR A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

K.S.Sajeew
S/o Sreedharan
Net Mender, Integrated Fisheries Project
Cochin-16

Applicant

(By advocate Mr V.R.Ramachandran Nair)

Versus

1. Union of India represented by the
Secretary, Ministry of Agriculture
(Department of Animal Husbandary & Dairying)
Krishi Bhavan, New Delhi.
2. The Director
Integrated Fisheries Project
Cochin-16.

Respsdondents

(By advocate Mr P.M.M.Najeeb Khan)

The application having been heard on 12th April, 2000,
the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR A.V.HARIDASAN, VICE CHAIRMAN


Applicant commenced casual service as Sales Assistant on 13.8.86. Since he was not being regularised on a Group-D post and kept only as a casual Sales Assistant, the applicant approached this Tribunal filing OA 1972/91. The OA was disposed of by order dated 18.1.93 directing the second respondent in that case to verify the statement given by the applicant in the rejoinder to the application and consider him for regularisation taking into consideration A-1 in that case and that if on verification it be found that the applicant had more service than any casual labourer junior to him who had been regularised, the case of the applicant should be

considered for regularisation on the basis of his seniority. Again finding that the applicant was not regularised in service, he filed OA 1205/95. Since during the pendency of that OA the applicant was regularised on a Group-D Post, the OA was disposed of giving liberty to the applicant to seek appropriate further reliefs at the hands of the respondents. The applicant thereafter made a representation on 24.8.97 (A-13) seeking retrospective regularisation in which he had stated that persons who had lesser length of service were regularised earlier. In reply to the representation, the applicant was given A-14 order dated 9.9.97 in which explaining the whole position the applicant was told that he had been granted temporary status on the basis of the Government of India's order dated 10.9.93 and that he would be regularised in his turn. Dis-satisfied with this, the applicant made a further representation to the second respondent in which the applicant pointed out that one Annamma and Balamani who had lesser length of service than him were regularised and appointed in the year 1991. In reply to the above representation, the applicant had been served with the impugned orders A-14 and A-19 wherein it has been clearly stated that the appointment of Annamma and Balamani was made not on the basis of seniority but on compassionate grounds in relaxation of the rules. The respondents maintained in this letter that the regularisation of the applicant was made in his turn and that he had no reason for further grievance. Aggrieved by these two orders A-14 and A-19, the applicant has filed this application seeking to have A-14 and A-19 set aside and for a direction to the respondents to regularise the applicant against a Group-D post at least from 29.4.91, the

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date of regularisation of his juniors such as Annamma Joseph, V.L.Balamani and Sudarsan, with all consequential benefits.

2. We have perused the application and the annexures thereto and have heard at length Mr V.R.Ramachandran Nair, learned counsel of the applicant. The persons named in the application who according to the applicant are juniors but regularised earlier, according to the respondents had been appointed on compassionate grounds in relaxation of the normal Rules of Recruitment. Their appointment is not challenged in this application though the applicant states if their appointments were on compassionate grounds, the percentage of reservation would have exceeded the limit. If the applicant had such a case, the appointment having been made in the year 199, the applicant should have challenged the same at the appropriate time. The applicant did not do so and, therefore, at this distance of time, he cannot put forth at that score. If there was no vacancy to accommodate the applicant on a Group-D post, he could be accommodated only as and when vacancy had arisen in his turn. The applicant has not been able to show even prima facie that his turn had arisen earlier. Therefore, we do not see how the applicant can claim that he should have been appointed at least with effect from 29.4.91 on a Group-D post.



3. Finding nothing in this application which calls for further deliberation, this application is rejected under Section 19 (3) of the Administrative Tribunals Act. No order as to costs.

Dated 12th April, 2000.



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

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Annexures referred to in this order:

- A-14: True copy of order No.OA/1205/95/2811 dated 9.9.97 issued by the 2nd respondent rejecting the request of the applicant for retrospective regularisation.
- A-19: True copy of Memo No.A1/4-5/90.Vol.II/858 dated 25.2.2000 issued by the 2nd respondent rejecting the retrospective regularisation of the applicant.
- A-13: True copy of the representation dated 24.8.97 submitted by the applicant to the 2nd respondent.
- A-1: True copy of Memo No.A1/2.2/87/867 dated 27.3.90 issued by the Assistant Engineer (Electronics), Office of the Integrated Fisheries Project, informing the applicant, the non-availability of vacancies.