

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A.No.387/96

Monday, this the 1st day of June, 1998.

CORAM:

HON'BLE MR PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

HON'BLE MR AM SIVADAS, JUDICIAL MEMBER

1. PRP Chandran,
Observer Grade.II,
Site No.13-N,
Central Water Commission,
Kumbidi, Ottapalam,
Palakkad District.
2. KV Yohannan,
Observer Grade.II,
Central Water Commission,
Site No.21, Karathode,
Ooragam Melmuri.P.O.
Malappuram District.
3. MN Divakaran,
Work Sarkar Grade.III,
Central Water Commission,
Site No.22, Kalampur,
Enanallour.P.O.
Muvattupuzha,
Ernakulam District. - Applicants

By Advocate Mr MC Cherian

Vs

1. Union of India represented by
Secretary,
Ministry of Water Resources,
Government of India,
New Delhi.
2. Chairman,
Central Water Commission,
R.K.Puram, New Delhi.
3. Superintending Engineer,
Cauvery and Southern Rivers Cicle,
Central Water Commission,
No..621, Dr.Rajkumar Road,
II Block, Rajaji Nagar,
Bangalore-560 010.

4. Executive Engineer,
Central Water Commission,
South Western Rivers Division,
Khalifa Building, S.R.M.Road,
Emakulam North,
Cochin-18.

5. L John,
Central Water Commission,
Site No.27, Bastibadapy,
Bentwal.P.O.
South Kanara,
Karnataka-574 211.

- Respondents

By Advocate Mr PR Ramachandra Menon, ACGSC(for R.1 to 4)

By Advocate Mr TC Govindaswamy(for R.5)

The application having been heard on 1.6.98, the
Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

Applicants are Observers Grade.II/Work Sarkar Grade.III in the Central Water Commission. They were initially working in Sikkim. Thereafter by orders A-25, A-26 and A-27 dated 20.8.93, they were appointed as Observers Grade.III/Work Sarkar Grade.III. These orders state also that they were so appointed from the date of their initial appointment as regular Khalasi in that Division and that all other terms and conditions stipulated in the original appointment order would remain unchanged. The orders also state that they are entitled to consequential benefits including arrears. By impugned orders A-42, A-43 and A-44 dated 19.3.96, these orders were withdrawn as erroneous. These orders also state that the 5th respondent would have his seniority restored over that of the applicants. Aggrieved by these impugned orders, the applicants have approached the Tribunal in this application with a prayer to quash the impugned orders and issue necessary directions to the respondents 1 to 4 to abstain from disturbing the present status and position of the applicants including their emoluments.

2. The respondents in their reply submit that under the rules, the legitimate claim of the applicants is for counting the past services rendered by them in Sikkim for pensionary benefits and fixation of pay in accordance with the Government orders. They also submit that the case of the applicants does not stand on the same footing as that of the applicants in O.A.468/86 of the Ahmedabad Bench and O.A.684/91 of the Ernakulam Bench of the Tribunal. Respondents further state that the orders A-25, A-26 and A-27 were passed without giving opportunity to the 5th respondent whose seniority was adversely affected and who challenged it in O.A.932/93. The Tribunal stated in para 7 of A-33 that the whole matter required reexamination. Therefore the impugned orders have been passed by the first respondent after reexamining the entire position. On such reexamination it was found that the orders have been issued by mistake and had to be rectified at the earliest possible opportunity.

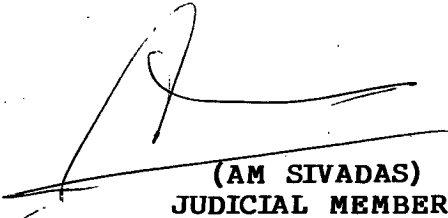
3. The 5th respondent in his reply submits that the applicants have not shown any rule, or order or regulation to support their claim. The applicants were appointed as Khalasis under the Executive Engineer, South Western Division. The orders A-25, A-26 and A-27 were not passed by the competent authority and it affected many Khalasis like the 5th respondent who is much senior to the original applicants in the cadre of Khalasis in the Central Water Commission. The applicants herein were impleaded in O.A.1932/93 as respondents 5 to 7. The respondent herein challenged A-25, A-26 and A-27 in that O.A. and the Tribunal disposed of that O.A. directing ^{consideration of} the representation and pass appropriate orders. In a Review Application filed by the applicants herein in that O.A. the Tribunal further stated that if the first respondent decides to modify the orders on the basis

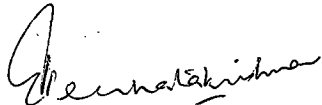
of the representation, he shall issue show cause notice to the review applicants(applicants herein) giving them an opportunity to show cause against such modification before arriving at a final decision. Accordingly a show cause notice was issued and the impugned orders have been passed.

4. We have heard the learned counsel on all sides at great length. The impugned orders state that the status of the applicants has been compared with the status of the applicants in O.A.684/91 of the Emakulam Bench and O.A.468/86 of the Ahmedabad Bench and ^{it was} found that applicants herein do not stand on the same footing as applicants in those O.As. We do not see anything in the pleadings which can persuade us to a conclusion that the applicants are on the same footing as the others referred to above. From A-21(in O.A.684/91) we find that the applicant therein is seen to have been transferred whereas the applicants herein have been retrenched. According to the Government instructions, the past service of the applicants in Sikkim would count only to the extent that it will be counted as qualifying service for pensionary benefits and also would entitle them to get increments in the scale in which they have been appointed. There is no protection of seniority in such a case. The impugned orders only follow the Government instructions in this regard and they have been issued after due notice to the applicants. We do not see any reason to quash the impugned orders.

5. The application is without merit and is dismissed. No costs.

Dated, 1st June, 1998.


(AM SIVADAS)
JUDICIAL MEMBER


(PV VENKATAKRISHNAN)
ADMINISTRATIVE MEMBER