

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. NO. 406/93

Friday, this the 21st January, 1994

SHRI N. DHARMADAN, MEMBER (J)
SHRI S.KASIPANDIAN, MEMBER(A)

1. N.S.Viswanathan,
Lower Division Clerk,
Naval Store Depot,
Naval Base, Kochi-4.
2. P.K.Marykatty, -do-
3. N.M.Jabbar, -do-
4. P.C.Usha -do-
5. M.S.Geethakumari, LDC,
Naval Ship Repair yard,
Naval Base, Kochi-4.
6. R.Rosamma, LDC,
Clothing Stores,
Indian Naval Ship Venduruthy,
Kochi-4.
7. Shirley Varghese, LDC,
Naval Ship Repair Yard,
Naval Base, Kochi-4.
8. K.V.Sankaran, UDC,
Naval Store Depot,
Naval Base, Kochi-4.
9. P.Padmakumari Amma, LDC,
Air Store, Indian Naval
Ship Garuda, Naval Base, Kochi-4.
10. V.Parameswaran Nair, Peon,
Naval Store Depot,
Naval Base, Kochi-4. .. Applicants

By Advocate Shri P.S.Nandanam

v/s

1. Union of India, rep. by
Secretary, Min. of Defence,
New Delhi.
2. The Chief of Naval Staff,
Naval Headquarters,
New Delhi.
3. The Flag Officer-Commanding-in-Chief,
Southern Naval Command,
Naval Base, Kochi-4. .. Respondents.

By Advocate Shri Mathew G.Vadakkel, ACGSC.

ORDER

N.DHARMADAN

Except applicants eight and ten, who are UDC and Peon respectively, all others are working as LDCs in the Naval Store Department, Naval Base at Kochi. They have jointly approached this Tribunal mainly for a direction to regularise them in service taking into account their casual service rendered prior to the regularisation.

2. According to the applicants, this case is similar to OA 967/90, copy of the judgment is at Annexure-A15. After the judgment, they have filed Annexures-A5 to A14 representations for getting the benefit of regularisation from the original date of appointment taking into account the period covered by the casual engagement after condoning the artificial breaks. The representations were rejected by the impugned orders, Annexures-A1 to A4. They are stereotyped orders containing identical reason as stated below:-

"..... the benefit of Court Judgment to non-petitioners has been rejected by Government. Therefore, the benefit of Cout judgment can be extended only to the petitioners. ..."

In the light of the Full Bench decision of this Tribunal and the law laid down by the Supreme Court that a declaratory judgment applies to non-petitioners as well, who are similarly situated, we see no justification in the stand taken by the authorities. They are bound to consider, when similarly situated persons approach the authorities, claiming benefit of earlier judgment, as to whether they are eligible for the same benefit and take a decision rather than denying the benefit on the sole ground that the judgment does not confer any benefit to 'non-petitioner'. This approach cannot be appreciated. It causes waste of

judicial time and loss of money and service benefits to persons similarly situated like the applicants in the O.A.

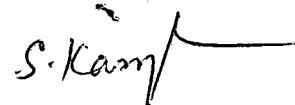
3. The contention of the applicants that their case is covered by Annexure-A15 has not been denied by the respondents in the reply. In fact they have admitted the case. Nor do they attempt to distinguish the case so as to enable us to take a different view in the case and deny the claim as claimed by the applicants.

4. The learned counsel for the respondents submitted that the claim of the applicants for regularisation is belated and hence the O.A. is to be dismissed.

5. We are not prepared to accept this contention. The O.A. was admitted on 9.3.93 after hearing the learned counsel for the respondents who received a copy of the O.A. No such contention based on limitation was raised at that time. In the impugned order also the respondents have not stated that the applicants claim is barred by limitation and hence it does not deserve consideration. Their only case is that the judgment would not apply to 'non-petitioner'. The judgment, Annexure-A15, was passed by this Tribunal on 19.2.93. The applicants could file representations only after the judgment. Accordingly, they filed Annexures-A5 to A14 immediately when they knew about the judgment. These representations were disposed of by the impugned order without mentioning that the claim is belated. Under these circumstances, we are of the view that the O.A. cannot be dismissed on the ground of bar of limitation in the light of the contentions now raised by the learned counsel for the respondents.

6. We are satisfied that the impugned orders cannot be sustained in the light of the clear pronouncement of this Tribunal as in Annexure-A15. Accordingly, we quash the same and direct the applicants to furnish all relevant details of their casual service and the artificial breaks before the 3rd respondent for verification. This shall be done within a period of three weeks from the date of receipt of a copy of this order. If the 3rd respondent receives the details as indicated above, from the applicants either jointly or separately, he shall verify the same bearing in mind the above observations and the principles laid down by this Tribunal in Annexure-A15 judgment and pass orders in accordance with law within a period of four months from the date of receipt thereof the same.

7. The application is allowed to the extent indicated above. There will be no order as to costs.



(S.KASIPANDIAN)
MEMBER(A)


21.1.94.

(N.DHARMADAN)
MEMBER(J)