

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

ORIGINAL APPLICATION NO: 1305/94

DATE OF DECISION: 24/7/2000

Shri Dilip R Lad & 8 Ors.

Applicant.

Shri A.I.Bhatkar

-----Advocate for  
Applicant.

Versus

Union of India & 2 Ors.

-----Respondents.

Shri V.S.Masurkar

-----Advocate for  
Respondents.

CORAM:

Hon'ble Shri A.V.Haridasan, Vice Chairman  
Hon'ble Shri Govindan.S.Tampi, Member(A)

1. To be referred to the Reporter or not?
2. Whether it needs to be circulated to other Benches of the Tribunal?
3. Library.

(GOVINDAN.S.TAMPI)  
MEMBER(A)

abp

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH  
ORIGINAL APPLICATION NO:1305/94  
DATED THE 24<sup>th</sup> DAY OF JULY, 2000

CORAM:HON.SHRI A.V.HARIDASAN, VICE CHAIRMAN  
HON.SHRI GOVINDAN.S.TAMPI, MEMBER(A).

1. Dilip R Lad
2. Suresh V Khade
3. Mahendra N Bhoir
4. Ashok H Mote
5. Mrs.Tanuja H.Chorge
6. Mrs.K.C.Deshpande
7. M.A.Satam
8. Mrs. U.U.Waingankar
9. Mr.C.B.Nilve

All working as Tracers in Naval Dockyard, Bombay, Notice to be served through Shri A.I.Bhatkar, Advocate 4/13, Mohamed Hussain Chawl, Opp.Antop Hill Post Office Sion Road, Bombay - 400 037.

... Applicants

By Advocate Shri A.I.Bhatkar

V/s.

1. Union of India,  
through Secretary,  
Ministry of Defence,  
South Block, New Delhi-110 011.
2. The Chief of the Naval Staff  
Naval Headquarters, DHQ P.O.  
New Delhi-110 011.
3. The Admiral Superintendent,  
Naval Dockyard, Lion Gate,  
Bombay - 400 023.

... Respondents

By Advocate Shri V.S.Masurkar

O R D E R

Per Shri Govindan.S.Tampi, Member(A).

Shri Dilip.R.Lad and eight others are the applicants in OA No.1305/94 filed against Union of India, Chief of Naval Staff and Admiral Superintendent Naval Dockyard, Mumbai, denial of seniority to them from dates of their initial appointment as well as benefits arising from an earlier petition.

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2. The applicants plead that they had been appointed as tracers on casual basis from 1987 and 1988 onwards on being sponsored through Employment Exchange. After short breaks they were absorbed on regular temporary basis on 29/10/90 and thereafter regularised w.e.f. 30/8/91. They had been appointed against regular vacancies and after due selection. All of them were also confirmed on 21/2/94. They pointed out that as they have been confirmed w.e.f. the date when they completed two year of probation, from their initial, date of appointment, they are to be treated as having been appointed on a regular basis from the date of their initial appointment. Though they were thus eligible to be considered for the promotion to the post of Draughtsman, they were denied the opportunity by a letter of 17/6/1994, stating that they had not completed the required period of five years. All the applicants made representation in the matter. Further, the letter/representation of 13/8/1994 sent by the Naval Technical Draftsman's Association, endorsing the case of the Applicants, was replied by respondent No.3 on 17/10/1994 stating that as they were not parties to the various, benefit, they would not accrue to them. Applicants refer to the decision of the Bombay Bench of this Tribunal in OA No.306/88 decided on 21/6/91, granting monetary benefits for casual services as well as to the decision of the Ernakulam Bench in OA No.1139/91 decided on 23/4/93 directing the respondents to consider the regularisation of the concerned applicants, condoning the artificial breaks and state that they should be extended the benefit of the above reliefs. They reiterate that as they have

been confirmed on completion of two years from the date of their initial appointment and have put in five years of regular service as tracers, they should be permitted to appear for the Department qualifying examination for the post of Draftsman.

3. Respondents in their reply dated 23/3/1995 make a few general observation and state that the action taken by them was correct. Interestingly however, with regard to the applicants pleadings in para 4.4 of the OA, with reference to their various dates of confirmation, the respondents only make a bald statement "that confirmation is purely based on the commencing of the continuation service without break".

4. Heard both the Counsel. Shri A.I.Bhatkar, the learned counsel for the applicants strongly urged the contention raised in the application, with special reference to the date of their confirmation. He argued that as the confirmation is accorded on completion of two years probation, the applicants are correctly entitled to the benefits of service two years immediately prior to that date. As in their case the said date coincided with the dates of their initial appointment, they should get the benefit of regularisation from those dates and breaks in between should be taken as condoned. They also referred to the decision of the Full Bench of this Tribunal in the case of Benjamin Jairaj Kurasu v/s. Union of India & Others indicated that, being similarly placed, they should get the benefit of the said decision.

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5. Arguing vehemently for the respondents, Shri V.S.Masurkar the learned counsel contested the requests by the applicants and stated that they are entitled for the benefit only from the date of their appointment as regular temporary tracers and not from their date of their initial appointments, on account of the breaks in service in between. Benefit of the decision of the Full Bench of the Tribunal cited by the applicants would not therefore be available to them, pleaded the Counsel for the Respondents.

6. On careful consideration of the rival pleadings we are inclined to hold for the applicants, what the applicants, who are working as Tracers in the Naval Dockyard, request is that they be granted the benefits of continuous service from the dates of their initial appointment, keeping their dates of confirmation in mind and also extending to them the benefit of the decision of the Full Bench of this Tribunal. On perusal of the Exhibit '2', the statement it is evident that the applicants have been confirmed on various dates in 1989 and 1990, applicant No.1 on 6/7/90, Applicant No.2 on 18/10/90 and applicant No.5 on 1/12/89 i.e. on the dates when they have completed two years from their date of initial appointment. It has therefore to be correctly presumed that the above individual have satisfactorily completed their probation on the date of their confirmation and should get the benefit of continuous service from their date of initial appointment. Even if admittedly there are breaks in service, the

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same have been condoned by the Competent Authorities. They are therefore entitled to the benefits of the decision of the Full Bench of the Tribunal issued in a similar situation reproduced below, which we respectfully accept:-

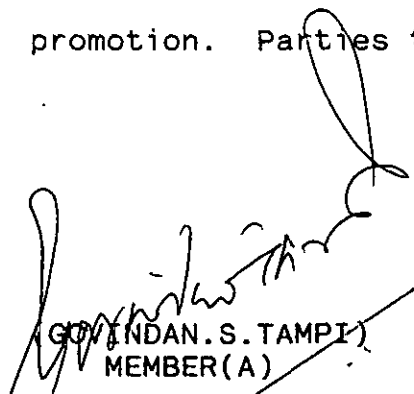
"The chageman appointed against regular vacancies on casual basis who continued to work for a number of years without break are entitled to get seniority from the date of their initial appointment and not from the date of regularisation."

7. In the instant case, the applicants were initially appointed during 1987 and 1988 and were confirmed on completion of two years from those dates and therefore the break in their service have to be taken as having been condoned, and thereby treated only as artificial breaks. They should therefore correctly get the benefit of continuous service and all the consequential reliefs. The respondents averment to the contrary in their pleadings as well as in their letter dated 17/10/1994 are without merit and are rejected.

8. In the result the applicants succeed. The respondents are directed to give the applicants the benefit of continuous service, from their date of initial appointment - not from their

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date of regularisation - keeping in mind the fact that they have been confirmed on completion of two years from the said date with all consequential benefits like eligibility for further promotion. Parties to bear their own costs.

  
(GOVINDAN.S.TAMPI)  
MEMBER(A)

  
(A.V.HARIDASAN)  
VICE CHAIRMAN

abp