

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
CIRCUIT BENCH: GOA
OA No.1298/95

THIS THE 9th DAY OF OCTOBER, 1998.

HON'BLE MR. JUSTICE K.M. AGARWAL, CHAIRMAN
HON'BLE MR. N. SAHU, MEMBER(A)

1. Shri G.K. Pawaskar
2. Shri T.V. Gaude
3. Shri S.P. Naik
4. Shri R.N. Sinai
5. Shri T.A. Aga
6. Shri S.P.C. Pereira
7. Shri S.K. Naik
8. Shri J. D'Sosta
9. Shri Anand R. Arlekar
10. Shri Abhimanyu R. Arlekar Applicants

(All working as Asstt. Storekeepers
in different units under Flag Officer
Commanding, Goa Area, Vasco-da- Gama.
Respondent No.4.
Address for service of letters
C/o G.U. Bhohe & S.G. Bhohe
Opp. Azad Maidan, M.G. Road
Panaji- Goa)

(By Advocate Shri S.G. Bhohe)

Vs.

1. Union of India through the
Secretary, Ministry of Defence
New Delhi.
2. Chief of Naval Staff,
Naval Head Quarters,
New Delhi.
3. Flag Officer Commanding-in- Chief
Headquarters, Southern Naval Command
Cochin- 6.
4. Flag Officer Commanding
Headquarters, Goa Area
Vascoda-gama, Goa ... Respondents

(By Advocate Shri S.R. Rivankar)

ORDER

JUSTICE K.M. AGARWAL:

By this application under Section 19 of the Administrative Tribunals Act, 1985, the applicants want a direction to the respondents to count their seniority from the date of their initial appointments in the grade of Asstt. Storekeepers as detailed in Annexure-I to the application.

2. The applicants were appointed as casual Assistant Storekeepers in various units of the 3rd and the 4th respondents in Goa. They claim that they were given regular appointments in the grade of Assistant Storekeepers between 11.1.1978 to

11.11.1991 as detailed in column 5 of their details of service particulars filed as Annexure- I. They have asserted that instead of giving seniority with effect from the dates of their regular appointments, they have been given seniority on various dates between 1.10.1982 and 11.11.1991 as detailed in column 6 of Annexure-I. Accordingly, their prayer is for giving them seniority with effect from the date of their initial appointments.

3. The application is resisted by the respondents. It is claimed that the applicants were not given regular appointments with effect from such dates as mentioned in column 5 of Annexure-I. Their appointments were not against any sanctioned posts or on permanent basis. In order to meet additional workload due to availing leave or to undertake unexpected additional temporary work, Government had empowered various administrative authorities of the Navy to create temporary short term vacancies exceeding the sanctioned posts vide document filed as Annexure R-1. The applicants were thereafter given regular appointments against sanctioned posts as and when vacancies were created and accordingly they were given their seniority. In short, for the reasons stated in the reply of the respondents, the applicants were not entitled to count their seniority from the date of their respective appointments.

4. It does not appear necessary to deal with the arguments and various authorities of Division Benches cited by the learned counsel for the parties extensively in view of the fact that similar question of similar employees had come up for consideration before a Full Bench of Ernakulam Bench of the Tribunal in OA No.967/90 (K.George Varghese & others vs. U.O.I. & others) and a bunch of OAs. decided by a common order

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dated 1.7.1994. The question before the Full Bench was as follows:-

" Whether the benefit of seniority to casual employees who are regularised in accordance with the Ministry of Defence letter dated 24.11.67 as amended by the corrigendum dated 27.5.1980 can be given from the date of initial appointment on a casual basis if the breaks in service are condoned, irrespective of the availability of regular vacancy even in respect of those casual employees who were regularised after 27.5.1980."


The answer returned by the Full Bench was as follows:-

" "In the light of the discussions aforesaid, we hold that casual service rendered prior to 27.5.80 will not count for seniority for those casual employees who were regularised after 27.5.80, irrespective of whether intermittent breaks of casual service were condoned or not. We answer the reference accordingly. It follows that the applications have to be dismissed and they are accordingly dismissed."

We are, therefore, of the view that this O.A. also deserves to be dismissed in accordance with the decision of the Full Bench of Ernakulam Bench of the Tribunal in the aforesaid cases.

5. In the result, this O.A. fails and it is hereby dismissed, but without any order as to costs.


(K.M.AGARWAL)
CHAIRMAN


(N.SAHU)
MEMBER(A)