

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH: AT HYDERABAD.

O.A. No. 703/87 & O.A. No. 107/88.

DATE OF DECISION: - 10-8-1990

O.A. No. -

Between:-

S.M.Moulali & 239 others - - - - - Petitioner(s)
& N.Rama Rao & 54 others
Shri P.Krishna Reddy, Advocate - - - - - Advocate for the
& Shri P.B.Vijaya Kumar, Advocate petitioner(s)

Versus

Under Secretary,
Ministry of Defence, - - - - - Respondent.
New Delhi & 3 others
Shri E.Madan Mohan Rao, - - - - - Advocate for the
Addl. CGSC Respondent(s)

CORAM:

THE HON'BLE MR. J.Narasimha Murthy : Member(Judl).

THE HON'BLE MR. R.Balasubramanian : Member(Admn).

1. Whether Reporters of local papers may be allowed to see the Judgment ? *No*
2. To be referred to the Reporter or not ? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgment ? *No*
4. Whether it needs to be circulated to other Benches of the Tribunals ? *No*
5. Remarks of Vice Chairman on columns 1, 2, 4 (To be submitted to Hon'ble Vice Chairman where he is not on the Bench)

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M(A)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No.703/87
& O.A.No.107/88.

Date of Judgment 10-8-1990

S.M.Moulali .. Applicants in O.A.No.703/87
& 239 others(vide Ann.A)
& N.Rama Rao .. Applicants in O.A.No.107/88
& 54 others(vide Ann.B)

Versus

Under Secretary,
Ministry of Defence,
New Delhi & 3 others .. Respondents
(vide Ann.A & B)

Counsel for the Applicants : Shri P.Krishna Reddy,
Advocate(in O.A.No.703/87
& Shri P.B.Vijaya Kumar,
Advocate(in O.A.No.107/88

Counsel for the Respondents : Shri E.Madan Mohan Rao,
Addl. CGSC.

CORAM:

Hon'ble Shri J.Narasimha Murthy : Member(Judl).

Hon'ble Shri R.Balasubramanian : Member(Admn).

I Judgment as per Hon'ble Shri R.Balasubramanian,
Member(Admn) I.

Shri S.M.Moulali & 239 others and Shri N.Rama Rao &
54 others have filed these applications under section 19
of the Administrative Tribunals Act against the Under
Secretary, Ministry of Defence, New Delhi & 3 others
respectively.
vide O.A.No.703/87 and O.A.No.107/88. These applica-
tions are similar in nature and are therefore dealt with
in one judgment.

2. The applicants are skilled Tradesman and holders of
I.T.I. certificates. They were directly appointed

✓ in the Civilian Establishment of Naval Dockyard at Visakhapatnam and are categorised as skilled Tradesman. They have all been appointed in various trades between the years 1977 and 1979. The applicants quote the Defence Ministry's letter No.2(17)/51/10805/D(CIB) dated 10.9.53 according to which if appointment were to continue beyond ^{the appointed} six months ~~he~~ will be allowed to continue in service and will be treated as ~~a~~ regular industrial employee from the date of ~~his~~ original appointment as casual industrial employee. The applicants claim that all of them having more than six months service should be deemed to have been converted into regular employees on the expiry of six months. Later, the respondents issued some other letters dated 29.3.80 and 28.9.84 to protect the interests of seniors. According to the applicants, the respondents issued seniority lists on 1.9.84 and 4.9.84 which they held, is in order. To the surprise of the applicants a note P.I.R./1106/S.M. dated 4.3.87 was notified alongwith copies of seniority lists in various trades like Electrical Fitters (Skilled), Engineering Fitters (Skilled) and R.E.F. & A.C. Fitters (Skilled). In the said lists the applicants are shown to have been regularly appointed not with effect from 1977 but with effect from 1984. They are aggrieved that this change had been brought about without any notice whatsoever to them. They have prayed that the seniority lists circulated under note dated 4.3.87 of the respondents be struck down and the ^{seniority} lists circulated in September, 1984 be upheld.

3. The respondents have opposed the prayer. They have stated that on completion of six months' uninterrupted service the applicants were treated as regular industrial employees for purposes of ^{financial} benefits which are admissible to the regular employees in terms of letter No.3(3)75/D(Civ-II) dated 6.10.66 read in conjunction with the letter of 10.9.53 referred to earlier of the Ministry of Defence. They therefore issued an order CEO A/144/80 dated 24.9.80 accordingly. The Tradesmen so employed were continued pending sanction by the Government. The applicants, who on completion of six months of continuous service, though on casual basis, and availing of all financial benefits on par with the regular industrial employees, sought permission to appear in the "Departmental Promotion Qualifying Examination" alongwith regular staff members sometime during 1983. The ~~so~~ permission was accordingly granted. The sanction for regular complement for the Naval Dockyard was received only in September, 1983 and the applicants who were all the time continuing on casual basis with full financial benefits as regular staff were brought on to the regular establishment in phases between April, 1983 and March, 1984. The respondents circulated seniority rolls in respect of Tradesmen working in different disciplines in September, 1984 and circulated among the workers for their information as well as for filing objections, if any. This seniority list prepared in the order of initial appointment was necessary in-as-much as the casual service was not under regulation depending...4

purely on the requirements in the various units from time to time. It is their contention that this cannot be considered to be a regular seniority list. According to them the seniority for the purpose of promotion etc., shall count only from the date of regular appointment. Representations were received and by their circular No.PIR/1106/SR dated 28.9.84 the respondents clarified the situation. For general information of the workers further clarificatory orders were also issued in the Daily Orders No.240/85 dated 28.8.85. They therefore contend that the final list circulated in March, 1987 is quite in order.

4. We have examined the case and heard the learned counsels both for the applicants and the respondents. The main question to be decided is whether the benefits conferred on the applicants in the letter of 10.9.53 based on six months' unbroken service can automatically give them regularisation. The letter dated 10.9.53 does not talk about regularisation as such. It only states that those who had completed more than six months as casual industrial employees would be treated as regular industrial employees from the date of their original appointment. It does not say that they will be regular employees on completion of six months. There is a difference between these two. ^{Combining} ~~Mixing up~~ of various categories of casual employees in different units had been posing a problem to the respondents. That is why in their letter dated 28.9.84 they have stated that the

date of initial appointment as Tradesmen has to be taken into consideration for fixing seniority for promotion purposes regardless of the dates on which the individuals were brought on casual basis. That was necessary because quite a large number of Tradesmen appointed on casual basis were made continuously casual at a later stage depending upon the availability of work in the various units. ^{giving juniors an advantage.} All this confusion apart, regularisation as such is a different process and does not come automatically by virtue of completing six months of service. The treatment as regular industrial employee was only for purposes of pay, allowances and increments and not for purposes of seniority. An employee can be brought on to the seniority list only when he becomes regular in that cadre.

5. The applicants have also referred to a writ appeal before the Hon'ble High Court of Andhra Pradesh dispose of on 20.12.85. A copy of the order is available at page 12 of the material papers to the application. In that case the Hon'ble High Court had referred to a presidential order which stated that casual non-industrial personnel who have been in employment for more than one year, without break should be converted into regular employees with effect from the date of their initial employment. There is no such presidential order in the case of industrial employees like the applicants and therefore the order of the Hon'ble High Court is not applicable to them.

Moreover, in the Daily Orders No. 240/85 dated 28.8.85 it had been clearly mentioned that the seniority of casual industrial/non-industrial employees will count from the date of their appointment on regular basis. It had also been stated that service rendered on casual basis prior to appointment on regular basis (even on continuous casual basis) shall not count for seniority for promotion, placing on probation and grant of Q.P. status. It is added that continuous casual employees are however entitled to all financial benefits on par with regular employees i.e., fixation pay, grant of annual increment, calculation of leave, pension and gratuity and terminal benefits and medical reimbursement etc. The applicants who had completed six months' service in terms of the provisions of the letter dated *Were only continuously casual* 10.9.53 till they were regularised. Thus their seniority can be reckoned only from the date of regular appointment to the cadre.

6. The applicants have not raised any objection regarding interse seniority based on the date of regularisation which is circulated in March, 1987. Thus we see that there is nothing wrong in the respondents reckoning the seniority of the applicants from the date of regular appointment which was possible only when regular posts became available. Till that date the applicants *have* had to be content only with the financial benefits made available to them in terms of the letter

dated 10.9.53.

7. Such being the case the application fails with no order as to costs.

MS'

R.Balasubramanian

(J.NARASIMHA MURTHY)
Member (Judl).

(R.BALASUBRAMANIAN)
Member (Admn).

Dated

10th August 53 *P.Krishna Reddy*
for DEPUTY REGISTRAR (JUDL)

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To

1. The under Secretary, Union of India,
Ministry of Defence, New Delhi.
2. The Chief of Naval Staff, Naval Head Quarters, New Delhi.
3. The Flag Officer, Commander-in-chier,
Eastern Naval Command, Visakhapatnam.
4. The Admiral Superintendent, Naval Dock Yard,
Visakhapatnam.
5. One copy to Mr. P.Krishna Reddy, Advocate.
3-5-899, Himayatnagar, Hyderabad - 29.
6. One copy to Mr.E.Madanmohan Rao, Addl.CGSC.CAT.Hyd. Bench.
7. One copy to Mr.J.Narasimha Murty, Member (Judl) CAT.Hyd.Bench.
8. One copy to Mr.R.Balasubramanian, Member (Admn)CAT.Hyd.Bench.
9. one copy to Mr. P.B.Vijaya Kumar, Advocate, A-1-8-7/II Sarvodaya Colony,
Chintadripetli Hyderabad - 20