

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH  
AT HYDERABAD

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O.A. No. 517/89.

Dt. of Decision

T.A. - No.

G.S.J. Atchuta Rao & 114 others

Petitioner

Shri P. Krishna Reddy

Advocate for  
the petitioner  
(s)

Versus

Union of India, Rep. by the Under Secretary,  
Min. of Defence, New Delhi & 3 others

Respondent.

Shri N.V. Ramana, Addl. CGSC

Advocate for  
the Respondent  
(s)

CORAM

THE HON'BLE MR. A.B. Gorthi : Member(A)

THE HON'BLE MR. T. Chandrasekhara Reddy : Member(J)

1. Whether Reporters of local papers may be allowed to see the judgement?
2. To be referred to the Reporters or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal?
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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HTCR  
M(J).

HABG  
M(A).

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD.

O.A.No.517/89.

Date of Judgement : 30-4-93

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|------------------------------|------------------------------------|
| 1. G.S.J.Atchuta Rao         | 59. P.Appa Rao                     |
| 2. P.Satyanarayana           | 60. V.S.N.Raju                     |
| 3. V.Ogeswara Rao            | 61. K.A.Sanyasi Rao                |
| 4. D.Mani Rao                | 62. K.Sanjeevi                     |
| 5. K.V.Gopal                 | 63. A.S.Appa Rao                   |
| 6. P.Thomas Sowry            | 64. K.Sree Ramulu                  |
| 7. D.Kannarao                | 65. K.Kotayya                      |
| 8. M.V.G.Satyanarayana       | 66. V.Surya Prakasa Rao            |
| 9. V.D.Bandhu                | 67. G.Suryanarayana                |
| 10. M.V.S.N.V.Gopala Rao     | 68. Ch.Ramana                      |
| 11. S.Krishna Murthy         | 69. D.A.Narasimha Raju             |
| 12. M.Laxminarayana          | 70. P.Sree Ramulu                  |
| 13. V.Satyanarayana          | 71. D.B.V.R.K.Raju                 |
| 14. B.Abbai                  | 72. D.Someswara Rao                |
| 15. K.Vasudeva Rao           | 73. P.Rama Raju                    |
| 16. G.Raja Rao               | 74. S.A.Ramachandra Raju           |
| 17. G.Shanthi Raju           | 75. K.Bheema Raju                  |
| 18. D.V.S.B.Prasad           | 76. K.Krishna Murthy               |
| 19. U.Suryanarayana          | 77. B.Govinda Rajulu               |
| 20. B.Ramana Rao             | 78. L.Chitti Raju                  |
| 21. P.Venkanna               | 79. R.Venkata Apparao              |
| 22. Y.Ramulu                 | 80. J.Lakshmanudu                  |
| 23. N.S.P.Murthy             | 81. K.S.Maheswara Rao              |
| 24. K.Suryanarayana          | 82. R.Deva Raju                    |
| 25. Y.Ramam                  | 83. S.Sankara Rao                  |
| 26. S.V.V.Subba Raju         | 84. B.Nandhi Swara Rao             |
| 27. B.Narasimha Rao          | 85. P.Appa Rao                     |
| 28. P.Venkateswara Rao       | 86. K.Venkateswara Rao             |
| 29. S.Satyanarayana          | 87. L.A.Sukumar                    |
| 30. T.Subba Rao              | 88. K.Naga Bhushanachari           |
| 31. P.Ramakrishna Rao        | 89. K.Ranga Rao                    |
| 32. M.Srinivasa              | 90. P.Siva Rama Raju               |
| 33. M.Laxmana Rao            | 91. V.Laxmi Narayana               |
| 34. V.Venkata Raju           | 92. R.M.L.Narayana                 |
| 35. O.Jagga Rao              | 93. J.Vykuntacharyulu              |
| 36. M.Easwara Rao            | 94. L.Udaya Shankar                |
| 37. K.Appala Raju            | 95. R.Ammanna                      |
| 38. P.Raghunada Rao          | 96. D.V.Ramana                     |
| 39. N.Ramakrishna            | 97. P.Rama Rao                     |
| 40. P.Sri Ranga Nayakulu     | 98. P.Venkata Rao                  |
| 41. K.Suryanarayana          | 99. S.Appala Naidu                 |
| 42. A.Jesudas                | 100. M.Victorjaya Bob              |
| 43. P.Nageswara Rao          | 101. R.V.Ch.Bhaskara Rao           |
| 44. A.Suryanarayana Murthy   | 102. T.Appa Rao                    |
| 45. K.Simhadri Raju          | 103. Y.Devadas                     |
| 46. K.Jaya Raju              | 104. K.S.N.Murthy                  |
| 47. P.G.Laxminarayana        | 105. S.Joji Babu                   |
| 48. P.Chakram                | 106. S.V.Satyanarayana             |
| 49. DLN.Murthy               | 107. G.Ramakrishna Rao             |
| 50. I.S.Prakasam             | 108. D.Naresh Kumar                |
| 51. L.Appa Rao               | 109. K.Venkata Rao                 |
| 52. Y.Mohan Rao              | 110. A.Ramachandra Rao             |
| 53. Shaik Madeena Bhasha     | 111. T.Pakeer Raju                 |
| 54. K.Pandari Panduranga Rao | 112. R.Ch.Satyanarayana            |
| 55. A.Subba Rao              | 113. K.Koteswara Rao               |
| 56. A.R.Mavullu              | 114. Jagadeesh Das                 |
| 57. M.V.Appa Rao             | 115. D.Satyanarayana .. Applicants |
| 58. M.Ananda Rao             |                                    |

Versus

1. Union of India, Rep. by the  
Under Secretary, Min. of Defence,  
New Delhi.
2. The Chief of Naval Staff,  
Naval Headquarters, New Delhi.

3. The Flag Officer,  
Commanding-in-Chief,  
Eastern Naval Command,  
Visakhapatnam.

4. The Admiral Superintendent,  
Naval Dock Yard,  
Visakhapatnam.

.. Respondents

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Counsel for the Applicants :: Shri P.Krishna Reddy

Counsel for the Respondents :: Shri N.V.Ramana, Addl. CGSC

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CORAM:

Hon'ble Shri A.B.Gorthi : Member(A)

Hon'ble Shri T.Chandrasekhara Reddy : Member(J)

{ Judgement as per Hon'ble Shri A.B.Gorthi : Member(A) }

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The claim of the applicants is for a direction to the respondents to follow the seniority list published on 4.9.84 and to consider the applicants for promotion strictly on the basis of the said seniority list. The 115 applicants herein are the employees of the Civilian Establishment of Naval Dock Yard at Visakhapatnam, they being I.T.I. Certificate holders who were initially appointed during the period 1977-79 as Skilled Tradesman i.e., Platters, Weldors and Fitters. According to the Ministry of Defence letter No.2(17)/51/10805/D(CIB) dt. 10.9.53 it was decided that the temporary industrial employees, as the applicants were, who were allowed to continue beyond six months were required to be treated as regular industrial employees from the date of their original appointment as casual industrial employees. The said change of category from casual to regular was to be declared even before the expiry of six months as soon as it was definitely known that the individuals would continue in service beyond six months. On the authority of the said Government's letter, the Admiral Superintendent issued a communication CEO.A/144/80 dt. 24.9.80. Even according to the said communication, employees who were

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temporary (casual) industrial employees having completed six months of continuous service were converted into regular employees with effect from the dates shown against each.

Consequently, the applicants were all shown as regular employees from the date of completion of six months from the date of their initial engagement. Subsequently, however, the respondents declared that the applicants would be deemed to be regularised only from the dates on which they were absorbed against the regular establishment i.e., sometime in 1984 and not as was shown earlier in the seniority list dt. 4.9.84.

2. The respondents in their reply affidavit while admitting the essential facts as averred in the application have clarified that the applicants were treated as regular employees in terms of the Ministry of Defence letter No.2(17)/51/10805/D(Civ) dt. 10.9.53 merely for the purpose of allowing them the financial benefits as admissible to the regular employees. It was based on the seniority list of 4.9.84 that some of the applicants were allowed to appear for the departmental qualifying examination also. Subsequently, Ministry of Defence vide orders dt. 19.11.83 promulgated instructions governing the seniority of the industrial employees. Accordingly, the applicants who are industrial employees were given seniority from the date of their regular appointment against the authorised establishment and not from the date of their original engagement as temporary (casual) employees. This position was further reiterated in the Dock Yard Daily Order No.240/85 which clarified the position as under:

"The seniority of casual industrial/non-industrial employees will count from the date of their appointment on regular basis. Services 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 QP status. Continuous casual employees are, however, entitled to all financial benefits on par with regular employees i.e., fixation of pay, grant of annual increments, calculation of leave, pension and gratuity, terminal benefits, medical reimbursement etc."

The respondents thus assert that the refixation of the seniority of the applicants was done correctly as per decisions taken by the Govt. of India.

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3. The question of counting the temporary (casual) service of the industrial as also the non-industrial employees of Naval Dock Yard has been the subject of litigation in a number of cases. The learned counsel for the applicants Shri P.Krishna Reddy drew our attention to a judgement of the Andhra Pradesh High Court in a Writ Appeal No.239/80. The said judgement set aside the decision of a Single Judge rejecting the prayer of the petitioners for granting them seniority from the date of their initial appointment. Similarly, our attention has been drawn to a decision of the Tribunal in O.A.No.654/88. From a perusal of the judgement in the said O.A. it would be apparent that the Tribunal followed the earlier judgements in O.As No.288/88, 402/86, 514/86 and also the judgement of the High Court of Andhra Pradesh in W.P.No.7269/89 in deciding the question of seniority from the date of initial engagement in favour of the applicants/petitioners therein. What is apparent, however, is that all the said cases pertain to non-industrial employees of the Naval Dock Yard. It is, therefore, the contention of the respondents that the said judgements would be of no avail to the applicants in the instant case who are industrial employees of the Naval Dock Yard.

4. The learned counsel for the respondents has invited our attention to a judgement of the Tribunal in O.As No.703/87 and 107/88. These two cases pertain to Skilled Tradesman and holders of I.T.I. Certificates as the applicants in the instant case are. In these two cases it was held that there was nothing wrong in the respondents' reckoning the seniority of the applicants from the date of their regular appointment which was possible only when regular posts became available. As the applicants in the present case are similarly situated as the applicants in O.As No.703/87 and 107/88, we would like to take the same view as was taken in the said O.As. We are also of the considered opinion

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that once instructions have been issued as to how the seniority was <sup>to be</sup> reckoned, such instructions must be followed uniformly and ought not to be offset by the Tribunal unless the said instructions are either arbitrary or discriminative in nature. The service rendered by the applicants prior to their regular absorption was undoubtedly of a temporary (casual) nature. As explained by the respondents, the applicants were, however, treated as regular employees for various other purposes including financial benefits. On the specific question of their seniority, the instructions issued by the Ministry of Defence vide their memo dt. 19.11.83 must apply. Accordingly, we do not find any irregularity in the decision taken by the respondents to fix the seniority of the applicants from the date of their regular absorption against the authorised establishment.

5. For the aforesaid reasons we are not inclined to grant the relief prayed for in this application. The application is dismissed. There shall be no order as to costs.

T. Chandrasekhara Reddy  
( T.Chandrasekhara Reddy )  
Member(J).

A.B.Gorthi  
( A.B.Gorthi )  
Member(A).

Dated: 20 April, 1993.

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1259  
Deputy Registrar(J)

To

1. The Under Secretary, Union of India,  
Ministry of Defence, New Delhi.
2. The Chief of Naval Staff, Naval Headquarters, New Delhi.
3. The Flag Officer, Commanding-in-Chief,  
Eastern Naval Command, Visakhapatnam.
4. The Admiral Superintendent, Naval Dock Yard, Visakhapatnam.
5. One copy to Mr.P.Krishna Reddy, Advocate, CAT.Hyd.
6. One copy to Mr.N.V.Ramana, Addl.CGSC.CAT.Hyd.
7. Copy to Library, CAT.Hyd.
8. One spare copy.

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Handwritten signature/initials at the bottom left corner.

TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD.

THE HON'BLE MR. JUSTICE V. NEELADRI RAO  
VICE CHAIRMAN

AND

THE HON'BLE MR. R. BALASUBRAMANIAN :  
MEMBER (ADMN)

AND

THE HON'BLE MR. T. CHANDRASEKHAR  
REDDY : MEMBER (JUDL)

DATED: 30-4-1993

~~ORDER~~/JUDGMENT

R.P./ C.P/M.A.No.

in

O.A.No. 517/89

T.A.No. (W.P.No )

Admitted and Interim directions  
issued.

Allowed.

Disposed of with directions

Dismissed as withdrawn.

Dismissed

Dismissed for default.

Ordered/Rejected.

No order as to costs.

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