

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH

AT HYDERABAD

70

O.A. NO. 517/89.

Dt. of Decision

T.A.--N.O.

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.)

ns

T. Chandrasekhara Reddy
HTCR
M(J). HABG
M(A).

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD.

O.A.No.517/89.

1. G.S.J. Atchuta Rao
2. P. Satyanarayana
3. V. Ogeswara Rao
4. D. Mani Rao
5. K.V. Gopal
6. P. Thomas Sowry
7. D. Kannarao
8. M.V.G. Satyanarayana
9. V.D. Bandhu
10. M.V.S.N.V. Gopala Rao
11. S. Krishna Murthy
12. M. Laxminarayana
13. V. Satyanarayana
14. B. Abbai
15. K. Vasudeva Rao
16. G. Raja Rao
17. G. Shanthi Raju
18. D.V.S.B. Prasad
19. U. Suryanarayana
20. B. Ramana Rao
21. P. Venkanna
22. Y. Ramulu
23. N.S.P. Murthy
24. K. Suryanarayana
25. Y. Ramam
26. S.V.V. Subba Raju
27. B. Narasimha Rao
28. P. Venkateswara Rao
29. S. Satyanarayana
30. T. Subba Rao
31. P. Ramakrishna Rao
32. M. Srinivasa
33. M. Laxmana Rao
34. V. Venkata Raju
35. O. Jagga Rao
36. M. Easwara Rao
37. K. Appala Raju
38. P. Raghunada Rao
39. N. Ramakrishna
40. P. Sri Ranga Nayakulu
41. K. Suryanarayana
42. A. Jesudas
43. P. Nageswara Rao
44. A. Suryanarayana Murthy
45. K. Simhadri Raju
46. K. Jaya Raju
47. P.G. Laxminarayana
48. P. Chakram
49. D.L.N. Murthy
50. I.S. Prakasam
51. L. Appa Rao
52. Y. Mohan Rao
53. Shaik Madeena Basha
54. K. Pandari Panduranga Rao
55. A. Subba Rao
56. A.R. Mavullu
57. M.V. Appa Rao
58. M. Ananda Rao

Date of Judgement : 30-4-1983

59. P. Appa Rao
60. V.S.N. Raju
61. K.A. Sanyasi Rao
62. K. Sanjeevi
63. A.S. Appa Rao
64. K. Sree Ramulu
65. K. Kotayya
66. V. Surya Prakasa Rao
67. G. Suryanarayana
68. Ch. Ramana
69. D.A. Narasimha Raju
70. P. Sree Ramulu
71. D.B.V.R.K. Raju
72. D. Someswara Rao
73. P. Rama Raju
74. S.A. Ramachandra Raju
75. K. Bheema Raju
76. K. Krishna Murthy
77. B. Govinda Rajulu
78. L. Chitti Raju
79. R. Venkata Apparao
80. J. Lakshmanudu
81. K.S. Maheswara Rao
82. R. Deva Raju
83. S. Sankara Rao
84. B. Nandhi Swara Rao
85. P. Appa Rao
86. K. Venkateswara Rao
87. L.A. Sukumar
88. K. Naga Bhushanachari
89. K. Ranga Rao
90. P. Siva Rama Raju
91. V. Laxmi Narayana
92. R.M.L. Narayana
93. J. Vykuntacharyulu
94. L. Udaya Shankar
95. R. Ammann
96. D.V. Ramana
97. P. Rama Rao
98. P. Venkata Rao
99. S. Appala Naidu
100. M. Victorjaya Bob
101. R.V.Ch. Bhaskara Rao
102. T. Appa Rao
103. Y. Devadas
104. K.S.N. Murthy
105. S. Joji Babu
106. S.V. Satyanarayana
107. G. Ramakrishna Rao
108. D. Naresh Kumar
109. K. Venkata Rao
110. A. Ramachandra Rao
111. T. Pakeer Raju
112. R.Ch. Satyanarayana
113. K. Koteswara Rao
114. Jagadeesh Das
115. D. Suryanarayana .. Applicants

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

Counsel for the Applicants :: Shri P.Krishna Reddy

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

CORAM:

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

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

判决 as per Hon'ble Shri A.B.Gorthi : Member (A)]

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.

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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W.L.O.

that once instructions have been issued as to how the seniority
was reckoned, such instructions must be followed uniformly and
ought not to be offset by the Tribunal unless the said instruc-
tions 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.

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

A.B.Gorthi
Member (A).

Dated: 20 April, 1993.

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.

pvm.

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COMPARED BY

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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.K.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.

pvm

