

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD

O.A.405/90.

Date of Judgment: 27.2.1991.

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|-----------------------|---------------------|
| 1. B.Appa Rao         | 26.G.Satyanarayana  |
| 2. T.Atchar Rao       | 27.A.Marayya        |
| 3. K.Nuka Raju        | 28.K.Appa Rao       |
| 4. M.Adivaiah         | 29.T.Appa Rao       |
| 5. S.Kunchaiah        | 30.P.Simhadri       |
| 6. Abdul Rahiman      | 31.K.Chinnayya      |
| 7. K.Chander Rao      | 32.T.Venkataramana  |
| 8. M.Narasinga Rao    | 33.D.Veerawamy      |
| 9. M.Krishna Rao      | 34.P.Sathyam        |
| 10.G.Pydi Reddy       | 35.K.Appala Raju    |
| 11.U.Appala Narasaiah | 36.G.Buchinaidu     |
| 12.M.Appanna          | 37.B.Rama Rao       |
| 13.C.Venkata Ramana   | 38.Ch.Ganga Raju    |
| > 14.K.Pydi Raju      | 39.E.Eswara Rao     |
| 15.V.Gurumurthy       | 40.A.Mahalakshmi    |
| 16.Devaraj Sahu       | 41.N.China Appa Rao |
| 17.V.Sathiraju        | 42.Sheku Joga Rao   |
| 18.S.Chandar Rao      | 43.B.China Ram badu |
| 19.K.Appa Rao         |                     |
| 20.E.Sadhubabu        |                     |
| 21.B.Manikyalla Rao   |                     |
| 22.B.Venkataswamy     |                     |
| 23.A.Bangarayya       |                     |
| 24.V.Gurumurthy       |                     |
| 25.P.Appa Rao         | ....Applicants      |

Vs.

1. Union of India, rep. by the Secretary  
Ministry of Defence, New Delhi-1
2. Chief of the Naval Staff Headquarters,  
New Delhi.
3. Flag Officer Commanding-in-Chief  
Headquarters, Eastern Naval Command,  
Visakhapatnam.

....Respondents

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Counsel for the Applicants : Shri T.Jayant

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

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COMRAM:

THE HON'BLE SHRI J.NARASIMHA MURTHY : MEMBER (J)

THE HON'BLE SHRI R.BALASUBRAMANIAN : MEMBER (A)

(Judgement of the Division Bench delivered by  
Hon'ble Shri J.N.Murthy, Member (J) ).

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It is a petition filed for a relief to direct the respondents herein to regularise the services of the applicants herein with effect from the dates of their initial appointment with all consequential service and monetary benefits.

The facts narrated briefly as follows :-

The applicants herein were appointed as Chowkidars as temporary (casual) employees in the Eastern Naval Command, Visakhapatnam during the years 1971 and thereafter through Employment Exchange after observing all formalities as prescribed for the appointment of regular chowkidars. But they were given periodical breaks by terminating their services after every 89th day of service and re-appointed thereafter in the same post thereby depriving them continuous service and other service benefits.

The applicants submitted representations to the authorities requesting for regularisation of their services with effect from the dates of their initial appointment condoning the artificial periodical breaks in terms of the presidential order, extending to them all

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consequential service and monetary benefits. As their representations were rejected they filed OA 257/88 before this Tribunal praying for a direction to the authorities to regularise their services with effect from the dates of their initial appointment with all consequential service and monetary benefits ignoring the said artificial breaks in the light of the judgments of the AP High Court in WA 239/80 and WP 7269/81 and the various judgments of this Tribunal in similar matters including TA 511/86.

This Tribunal was pleased to allow the OA 257/88 on 16-4-1988 directing the respondents to regulate their services with effect from the dates of their initial appointment with all consequential service and monetary benefits. Thereupon the 3rd respondent herein by his memo No.CE/0762/3 dt.21-10-88 passed orders in implementation of the above judgment stating that no additional benefits accrue to the applicants herein, consequent upon the delivery of the judgment in OA 257/88 on a plea that one Sri K.Anthony, the junior most petitioner chowkidar at Sl.No.105 in WP 7269/81 has been regularised with effect from 17-11-1983 only i.e. the date of the said judgment and that the present judgment in OA 257/88 is also to be implemented with effect from 17-11-1983 only, which benefit the applicants in the OA have already got. Thereupon the applicants submitted

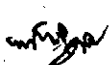
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their representations dt.7-2-1989 to the 3rd respondent requesting for regularisation of their services with effect from the dates of their initial appointment with all consequential service and monetary benefits in the light of the judgments of AP High Court and also various other judgments of this Tribunal. It was also pointed out in their representations that some of the applicants in DA 257/88, whose services have been regularised with effect from the dates of their initial appointment are juniors to the applicants herein. But the 3rd respondent did not pass any orders on these representations. While so, this Tribunal was pleased to allow TA 145/87 (WP 7763/85) directing the respondents to regularise the services of the petitioners therein, who were the petitioners in earlier WP 7269/81 with effect from the dates of their initial appointment with all consequential service and monetary benefits as per rules and not with effect from 17-11-1983 and as the said applicants are juniors to the applicants herein the applicants herein submitted their representations dt.22-6-1989 requesting the 3rd respondent to regularise their services also with effect from the dates of their initial appointment and to extend to them all consequential benefits in the light of the above judgment in TA 145/87. But no orders have been passed by the 3rd respondent on these representations.



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Counter has been filed on behalf of the Respondents admitting that the applicants were appointed as Casual Chowkidars in Eastern Naval Command during 1971 and thereafter through the Employment Exchange after observing all formalities for appointment as Chowkidars, but it is denied that they were given periodical breaks by terminating their services after every 89 days of service and re-appointed thereafter in the same post thereby depriving them of continuous service and other benefits. It is stated that to meet the short term and operational requirements of the State/Navry, certain posts are sanctioned for a very short period on 'as required basis', under local financial powers under Navy Instructions I/S/63 and people are recruited against these vacancies initially for the specific period as per the sanction. When the work for which the post is created is completed, the post itself ceases to exist and the appointment of the incumbent also terminates automatically. For this reason the individuals so recruited against such vacancies are categorically employed for the specific period purely on casual basis and as such, in the offer of appointment itself they are informed that their services are purely on casual basis and are liable to be terminated at any time without notice on either side and without attributing/assigning any reason whatsoever, for such termination. Further they are not assured of any continuity of service because of the short term requirement and short duration of the post. However, as and when any fresh requirement

arises, again the short term posts are created under the navel instructions, and in order to show some type of employment and also in view of their past experience in the Department, the same individuals whose services are terminated earlier are again re-appointed afresh. Thus the appointment and re-appointment of the individuals are inevitable to meet the State's short term requirements. But when vacancies are created by Naval Headquarters for long term, the same individuals that is the seniors amongst those who served against the short term vacancies are re-appointed to those long term vacancies and are continued therefrom without intermittent breaks keeping the principals of natural justice in view. In case of non-industrial employee, when he completes one year continuous service without interruption, he is converted as regular employee. The casual service rendered prior to appoint on regular basis shall not count for seniority and the seniority will count from the date of their appointment against the regular post sanctioned by the Government. The Goa circuit bench of this Tribunal while disposing of similar cases i.e. DA Nos.516/88 and 732/88 on 24/25-8-1989, categorically directed that the seniority of the applicants therein should be fixed in their respective grades from the dates on which they are absorbed against regular vacancy. It is further stated that there are no government orders to regularise the services of casual employees from the date of their initial appointment, condoning the periodical breaks.

It is relevant to mention here that as per the judgment/directions of this Hon'ble Tribunal in OA 257/88, the case of the applicants therein was to be compared with WP 7269/81 to ascertain whether any of their juniors was given the benefits of regularisation etc. from the initial date of appointment, because in this WP 7269/81 only the category of Chowkidars (to which the petitioners in OA No.257/88 relates) was there and the other cases i.e. WA No.239/80 and TA 511/86 (WP 2733/83) related to other categories (LD Clerks/Asstt. Storekeepers etc.). Therefore, the case of the petitioners of OA 257/88 was compared with the juniormost petitioner in WP 7269/81. It is added in this connection, that in WP 7269/81, the judgement was delivered on 17-11-1983 and as per the Administrative instructions of Naval Headquarters, the said judgement was implemented from 17-11-1983 only and the petitioners were to be given benefits from that date and not from the date of their initial appointment. It is relevant to mention that all the petitioners in the said OA 257/88 (who were all petitioners in the present OA also) were seniors to the petitioners in WP 7269/81 and were eligible for the benefits on par with them; but all the petitioners in WP 7269/81 were given the benefits of regularisation etc. from 17-11-1983 ( i.e. the date of the judgement) and the petitioners in OA 257/88 were already regularised in the normal course in their turn much earlier to this date, 17-11-83,

from various dates. Thus none of their juniors got benefits pursuant to the judgment of WP 7269/81 prior to 17-11-83. Thus no additional benefits accrued to the petitioners in OA 257/88 as their regularisation etc. was done prior to this date in their own normal turn. It is emphasized that the judgement in OA 257/88 was not a blank cheque to regularise the services of the petitioners from initial date of their appointment with consequential benefits, as contended by them. No additional benefits accrued to the applicants in OA 257/88 as their regularisation was made much earlier to 17-11-1983, from which date the applicants in WP 7269/81 were given benefits. Thereafter TA 145/85 was disposed of infavour of the applicants and accordingly they derived the benefits of regularisation etc. right from the date of their initial appointment instead of 17-11-83. This was done in strict compliance of the said judgement as well as the <sup>con</sup>currence of the Administrative Authority. For these reasons it is stated that the applicants have not made out any case either on facts or in law worthy of consideration by and warranting interference of the Tribunal and hence, they are not entitled for any of reliefs prayed for and there are no merits in the application. For these reasons it is contended that the application has to be dismissed.

We have heard Shri T. Jayant, learned counsel for the applicants and Shri E. Madan Mohan Rao, learned standing counsel for the Respondents. It is admitted  
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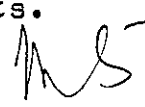
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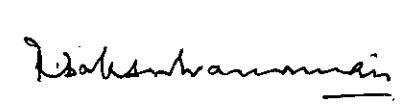
1. The Secretary, Union of India,  
Ministry of Defence, New Delhi-1.
2. The Chief of the Naval Staff Headquarters, New Delhi.
3. The Flag Officer Commanding-in-Chief Headquarters,  
Eastern Naval Command, visakhapatnam.
4. One copy to Mr.T.Jayant, Advocate, CAT.Hyd.Bench.
5. One copy to Mr.E.Madanmohan Rao, Addl. CGSC. CAG.Hyd.Bench.
6. One copy to Hon'ble Mr.J.Narasimha Murty, Member(J)CAT.Hyd.
7. One spare copy.

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fact that the Original Application No. 257/88 filed before this Tribunal for regularisation of the services of the applicants with effect from the date of their initial appointment with all consequential benefits in light of the judgment rendered in WA 239/80 and WP 7269/81 and the various judgments of this Tribunal rendered in similar matters including TA 511/86 of this Tribunal, were allowed. The judgment in OA 257/88 was implemented with effect from 17-11-1983 and the applicants in OA 247/87 are much juniors to the applicants in OA 257/87 but the applicants in OA 247/87 was regularised with effect from the date of their initial appointments and these petitioners are also working in the same department with artificial terminations that were made periodically and these cannot come in their way for regularisation of their services with effect from the dates of their initial appointments. So the applicants are entitled to be regularised on par with the petitioners in OA 247/87. Accordingly we direct the respondents to regularise their services with effect from <sup>on which</sup> the dates ~~of~~ their initial appointments were made with all service and monetary benefits. With these directions the application is allowed. There will be no order as to costs.

  
(J.N. MURTHY)  
Member (J)

  
(R. BALASUBRAMANIAN)  
Member (A)

avl/

Dated: 27-2 Feb 1991

ASR  
14/3/91  
CHECKED BY  
TYPED BY

APPROVED BY  
COMPARED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH HYDERABAD

THE HON'BLE MR.B.N.JAYASIMHA : V.C.

AND

THE HON'BLE MR.D.SURYA RAO : M(J)

AND

THE HON'BLE MR.J.NARASIMHA.MURTY:M(J)

AND

THE HON'BLE MR.R.BALASUBRAMANIAN:M(A)

Dated: 27-2-1991.

~~ORDER~~ / JUDGMENT:

M.A./R.A. /C.A. NO.

in

T.A.No.

W.P.No.

O.A.No.

405/90

Admitted and Interim directions  
issued.

Allowed

Disposed of with direction

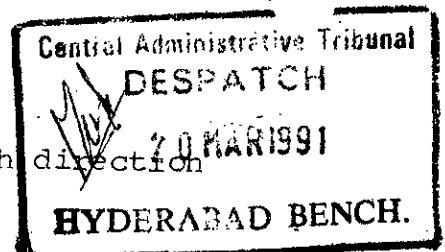
Dismissed

Dismissed as withdrawn

Dismissed for default

M.A. Ordered/Rejected.

No order as to costs.



14/3/91