

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD

O.A.NO. 1126/93.

Date of Order: 17-3-94.

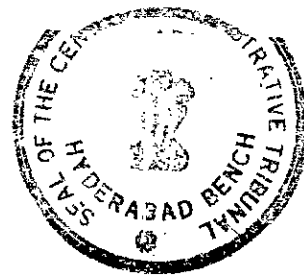
Between:

S. Kurma Rao & 18 others.

.. Applicant.

and

1. The Union of India, rep. by its Secretary, Ministry of Defence, New Delhi.
2. Engineer-in-Chief, E-in-C's Branch, AHQ, DHQ Post, Kashmeri House, New Delhi.
3. Chief Engineer, Southern Command, Pune-1.
4. Chief Engineer (Navy), Station Road, Visakhapatnam-4.
5. C.W.E.(P) IRSD Area, Kancharapalem Post, Visakhapatnam.
6. Garrison Engineer(P) E/M, C/o CEW(P) 9, IRSD Area, Kancharapalem Post, Visakhapatnam.



.. Respondents.

Counsel for the Applicant : Mr.V.Venkataramana, ~~Advocate~~

Counsel for the Respondents: Mr.N.R.Devraj, Sr.CGSC.

CORAM:

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

THE HON'BLE MR.H.RAJENDRAPRASAD : MEMBER(ADMN)

Order of the Division Bench delivered by

Hon'ble Sri T.Chandrasekhara Reddy, Member(Judl)

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This OA is filed for the very same relief as claimed in OA. 389/93. The facts in this OA and in O.A. 389/93 are one and the same. After hearing Mr.E.Madanmohan Rao, learned counsel for the applicant and Mr.N.R.Devraj, standing counsel for the respondents, we have disposed of the said OA 389/93 by giving certain directions. After hearing both sides in this OA,

appointment as Casual Labour and consequently to regularise their services by appointing them to suitable posts such as Mazdoors, Tradesmen in the existing vacancies with all consequential benefits providing preferential treatment and pass such other order or orders as may deem fit and proper in the circumstances of the case.

The facts giving rise to this OA in brief are as follows:-

2. The applicants herein have worked in Dry Dock for various periods during the years 1977 to 1981. The services of the applicants were dis-engaged subsequently as the work which they were engaged was completed. Some other casual employees whose job had been completed were discharged from their services as per the relevant rules and instructions. Aggrieved by the said action the said discharged casual employees approached the High Court of A.P. in W.P.7041/84. The said writ petition 7041/84 was disposed of by the High Court by giving certain directions.

3. Another W.P.9066/85 was filed in the High Court of A.P. on similar lines as W.P.7041/84 by the casual employees as against the proposed action of disengagement. The said Writ Petition was transferred to this Tribunal and the same was re-numbered as TA.736/86. The said T.A.736/86 was disposed of by this Tribunal by giving similar as given in WP 7041/84. So, in view of the directions given in WP 7041/84 and in TA.736/86, the department undertook certain action to comply with the said directions. So the respondents gave advertisements in the news papers VijayaBhanu dt. 7.6.87 Andhra Patrika Hyderabad/Vijayawada Edition dt.14.6.87 regarding the casual employees that were previously employed to appear before the Board of Officers along with the documents to prove that they were engaged during the period 1977-81, 455 responded to the said advertisement for which Board of Officers was convened by the Department to verify the service documents and for authenticating bonafide biodes of the applicants. The said Board was open upto three months. Accordingly 236 personnel among those that appeared before the Board Officers were selected after verification of their service documents, and other material. A list of the candidates that were selected was finalised. According to the respondents none of the applicants appeared before the Board in pursuance of the advertisement made in the above said Daily News Papers. So, it is the contention of the respondents that the petitioner did not have any right for seeking appointments

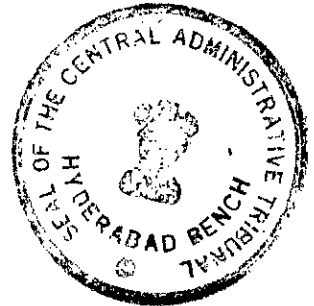
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD

O.A.NO. 389/93

Date of Order: 16-3-94.

Between:

1. K.Mohan Rao.
2. P.Narayana Rao.
3. G.S.N.Raju.
4. R.Nagabhushanam.
5. V.Venkata Ramana Murthy.
6. P.Kanaka Rao
7. G.Appala Naidu.
8. R.Nageswara Rao.
9. P.Rama Raju
10. B.Suryanarayana Murthy.



..

Applicants.

and

1. The Union of India, rep. by its Secretary, Ministry of Defence, New Delhi.
2. Engineer-in-Chief, E-in-C's Branch, AHQ, DHQ, Post, Kashmeri House, New Delhi.
3. Chief Engineer, Southern Command, Pune-1.
4. Chief Engineer(Navy) 1 Station Road, Visakhapatnam-4.
5. C.W.E.(P) IRSD Area, Kancharapalem Post, Visakhapatnam.
6. Garrison Engineer, (P) E/M, C/o CEW(P) 9, IRSD Area, Kancharapalem Post, Visakhapatnam.

..

Respondents.

Counsel for the Applicants: Mr.V.Venkataramana.

Counsel for the Respondents: Mr.N.R.Devraj.Sr.CS.C.

CORAM:

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

HON'BLE SRI H.RAJENDRA PRASAD : MEMBER(ADMN)

ORDER OF THE DIVISION BENCH DELIVERED BY

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

...

This is an application filed under Section 19 of the Administrative Tribunals Act to direct the respondents to treat the applicants as regular Industrial Workers from the date of initial

If the period the applicants had worked during the period 1977-81. is to be taken into consideration and the applicants are to be given seniority as contended by them, then we will be unsettling what had been settled by the respondents by selecting 236 personnel and giving them regular appointment assigning seniority. That cannot be permitted under any circumstances. So, in view of the facts and circumstances of the case the applicants cannot have the benefit of their past service either for the purpose of regularisation or for the purpose of seniority and so the claim of the applicants for regularisation is liable to be rejected. As the applicants claim for regularisation is rejected they can also stake their claim for appointment to the present vacancies if any are available except in accordance with rules and regulations now in force. So, even though the claim of the applicants is liable to be rejected with regard to regular appointments and for seniority, if the applicants had really worked with the respondents during the period of 1977-81 this OA is liable to be disposed of with appropriate directions so as to subserve the ends of justice and to protect the interest of the applicants.

6. In the result, the claim of the applicants is rejected and the OA is dismissed, and when it becomes necessary for the respondents to engage labour on casual basis the respondents shall give preference in engaging the applicants if there is work, provided the applicants produce any material that is acceptable to the respondents that the applicants had worked during the period 1977-81. Even if the applicants fail to produce any such acceptable material and if the respondents have in their possession got any material to show that the applicants had worked during the period 1977-81 on casual basis then also the respondents shall give preference to the applicants in engaging them. If the applicants are engaged it should be construed for all purposes as if freshers are engaged. As and when vacancies become available the applicants shall be absorbed in the said vacancies in accordance with the relevant instructions/rules/regulations. Once again- we make it clear that the past service of the applicants during the period 1978-81 will not be of any avail to them either for the purpose of regularisation or for the purpose of seniority. The parties shall bear their own costs,

CERTIFIED TO BE TRUE COPY
Date
Court Officer
Central Administrative Tribunal
Hyderabad Bench
Hyderabad.

Reddy
30/5/84

at this belated stage and so this OA is liable to be dismissed. As the applicants are not provided appointments the applicants have approached this Tribunal for the relief as already indicated above.

4. We have heard today Mr.V.Venkataramana, counsel for the applicants and Mr.N.R.Devraj, Standing Counsel for the respondents.

5. The case of the applicants is that they had worked with the respondents on casual basis during the year 1977-1981. It is also their case that casual employees similarly situated to the applicants herein had been appointed and that their services had been regularised in pursuance of the directions given in W.F.7041/84 on the file of the High Court and TA.736/84 on the file of this Tribunal and that the applicants herein are also entitled to similar benefits as had been given to the petitioners in WP 7041/84 and TA.736/86. If it is a fact that the applicants had worked during the period from 1977-81 there is no reason why the applicants in spite of the elaborate publicity that had been given did not appear like others who had been engaged during the period 1977-81 by the respondents and prove that they had worked during that period and get the same benefit which the others had. So, in view of the fact that these applicants had failed to appear and to prove that they had worked during the years 1977-81 before the competent authority, it is not open for the applicants to claim similar benefits on par with those that had been selected, appointed and regularised on proof that they had worked during the years 1977-81. The applicants are also not entitled in the circumstances of the case to claim seniority over the persons that had been regularly selected in pursuance of the directions given in WP 7041/84 and TA.736/86. For all purposes the appointment of the said 236 personnel who had been selected by the competent authority in view of the proof they could produce that they had worked during the period from 1977-81 on casual basis is final. But already pointed out the applicants had not appeared before the competent authority to prove that they had worked during the period 1977-81. As the selection of the 236 personnel is regular and their services are regularised, it is not open to the applicants now to contend that their seniority is to be taken into consideration depending on the number of days they had worked during the period 1977-81.

To

1. The Secretary, Ministry of Defence,
Union of India, New Delhi.
2. The Engineer-in-Chief, E-in-C's Branch,
HQ DHQ Post, Kashmeri House, New Delhi.
3. The Chief Engineer, Southern Command, Pune-1.
4. The Chief Engineer(Navy) Station Road, Visakhapatnam-4.
5. The C.W.E.(P) IRSD Area, Kancharapalem Post, Visakhapatnam.
6. The Garrison Engineer, (P)E/M, C/o CEW(P)
9, IRSD Area, Kancharapalem Post, Visakhapatnam.
7. One copy to Mr.V.Venkataramana, Advocate, CAT.Hyd.
8. One copy to Mr.N.R.Devraj, Sr.CGSC.CAT.Hyd.
9. One copy to Library, CAT.Hyd.
10. One spare copy..

pvm