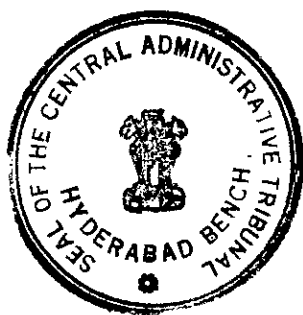


IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT : HYDERABAD



O.A.No. 79 of 1990

Dt. of Order: 26-3-1991

Between:-

- |                            |                           |
|----------------------------|---------------------------|
| 1. GVK Raju                | 22. R. Raja Sekhar        |
| 2. J. Sivaji Rao           | 23. M. Suryachandra Rao   |
| 3. G. Ananda Rao           | 24. KSR Babji             |
| 4. PSV Ramana Rao          | 25. N. Venkateswara Rao   |
| 5. Smt. V. Sujatha         | 26. GKR Ananda Babu       |
| 6. L. Edward               | 27. S. Demudu             |
| 7. B. S. Ravi Kumar        | 28. A. Rahoof             |
| 8. V. Ramesh               | 29. Ch. Trinadha Rao      |
| 9. JSV Chandra Sekhara Rao | 30. R. Satyanarayana Raju |
| 10. M. Vijaya Bhaskar      | 31. Surya Mani            |
| 11. DVV Satyanarayana      | 32. D. Venkateswara Rao   |
| 12. P. Nageswara Rao       | 33. A. Ravindra Kumar     |
| 13. A. Rama Gopala Rao     | 34. Smt. B. Lakshmi Papa  |
| 14. R. Seetharam           | 35. P. Gowri Shankar      |
| 15. P. Appala Naidu        | 36. KSS Sainath           |
| 16. Ch. Subba Rao          | 37. P. Nooka Raju         |
| 17. U. V. Ramana           | 38. B. Chinna Rao         |
| 18. P. Appalaswamy         | 39. A. Venkata Ramana     |
| 19. Smt. T. Sarojini       | 40. Smt. Y. Jayasree      |
| 20. KVV Subramanyam        | 41. K. Gangabhavani       |
| 21. I. Nageswara Rao       |                           |

.. APPLICANTS

AND

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

.. RESPONDENTS

Appearance:

For the Applicants : Shri T. Jayant, Advocate.

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

CORAM:

THE HONOURABLE SHRI B. N. JAYASIMHA, VICE-CHAIRMAN.

THE HONOURABLE SHRI D. SURYA RAO, MEMBER (JUDICIAL).

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(ORDER OF THE BENCH DELIVERED BY HONOURABLE MEMBER (J),)  
SHRI D. SURYA RAO.

nation of their previous appointment and the date of their fresh/reappointment were inevitable. It is, therefore, stated that under rules the applicants regularisation from the date of initial appointment is not permissible and their continuous service counts only if they complete one year continuous service without any break. They are converted as regular employees and given the benefits within the parameter of Ministry of Defence letter No.3(3)/65/11828/D(Civ-II), dt.26.9.1966, as amended by the Corrigendum No.11(3)/67/D(Civ-II), dated 6.3.1967 and No.83482/EC-4/Org.4(Civ)(d)/13884/D(Civ-II), dated 24.11.1967. The High Court of A.P. and this Tribunal have given the benefit of regularisation from the date of initial appointment to certain temporary (casual) employees. It is further stated that in so far as this Tribunal is concerned, it gave <sup>c</sup> the judgement with directions to extend the benefits to the applicants therein provided any junior got similar benefits pursuant to the Judgement of the High Court of A.P. in W.A.No.239 of 1980 and W.P.No.7269 of 1981 or the orders of the Tribunal in a similar matter viz., TA No.511 of 86 (W.P.No.2733 of 1983). It is stated that the matter is under examination by the Ministry of Defence and that a decision when arrived at will be communicated to all concerned.

4. We have heard the learned Counsel for the applicant, Shri T.Jayant, and the learned Standing Counsel for the Department, Shri Naram Bhaskara Rao, on behalf of the respondents.

2. The applicants state that each of them have submitted representations dated 13.1.1988 to the 3rd respondent requesting for regularisation of their services from the date of their initial appointment. services/(Annexure-A-2 to the application). They were informed on 18.2.1988 that the matter regarding date of initial appointment and consequential benefits is under examination of the Ministry of Defence and that a decision arrived at would be communicated to all concerned. The applicants state that as no decision was arrived at, all of them submitted another representation on 18-5-1989 to the 3rd respondent. However, they did not receive any orders till the date of filing of the application. The applicants, therefore, pray that a direction may be issued to the respondents to regularise their services w.e.f. the date of their initial appointment as temporary/casual LDCs with all consequential service and monetary benefits, by condoning the artificial breaks in service in the light of the verdicts of the High Court of Andhra Pradesh, and the Central Administrative Tribunal, Hyderabad Bench (in O.A.No.514 of 1986 allowed on 14.5.87).

3. On behalf of the respondents a counter has been filed. It is stated that the applicants were appointed as Temporary (Casual) L.D. Clerks against short term vacancies created for specific purpose to meet the contingencies under local financial powers. Such posts are sanctioned for specific periods and with the completion of the particular job and on expiry of the stipulated term of sanction, the vacancies cease to exist. It is, therefore, stated that the applicants have no right for regularisation. The breaks in between the date of termi-

be treated as regular: (h) again on January 3, 1974 the Army Headquarters issued instructions in a letter and para (2) of that letter contains Technical break before 90 days should not be given as such employees case title to get regular employments: besides got even aged: (i) In NHA letter No.CP(A)-5107 dated February 22, 1974, in para 2, it is stated the condition that the services are required on long term basis should be deemed to have been fulfilled if at the time of conversion of casual employees, the commandents are satisfied that there is no prospect of the cadre being abolished in the near future. In this context M of D letter No.09776/327/SBC/3604/D(Civ-I), dated April 30, 1968 was referred to:

The Chief Staff Officer, Headquarters, Eastern Command, Visakhapatnam, in opposition to the Writ Petition averred in each case of 110 Chowkidars, whenever appointment was made, the Employment Exchange was approached on esplusal of what authority. Averting to the particulars of the 110 Chowkidars, it is averred that they are not entitled to medical facilities, educational allowances LTC, Insurance privileges and are not entitled to admission to government provident fund as they are not Regular employees of the India Navy. As a category, it is averred, the instant Chowkidars, are non-industrial labour and cannot claim the instructions contained in letters in (c), (e) and (i). Therefore, it is asserted that these 110 persons are casual labourers: they are not entitled to regular status. As to after 89th day when they were terminated, the practice is not specifically denied: in fact, the adoption as such a practice is admitted at the debate.

Thus it is seen some of the petitioners are working as Chowkidars for more than 10 years, others, for more than 8 or 6 years. In such cases, all of them were continued for even five years, when the requirement of Navy is more than six months. In the case of each Chowkidars, the Navy could easily have anticipated the period of appointment and break in service; method of divide was adopted to deprive the petitioners of reliefs specified in (a) to (i) referred to above:

The Flag Officer, commanding-In-Chief, Headquarters, Eastern Naval Command, Visakhapatnam, therefore, is directed to regularise the services of these petitioners, ignoring the break in service pursuant to the instructions issued in (a) to (i) and pass orders. The Writ Petition is allowed.

"

This decision was again followed in Writ Appeal No.239 of 1989. These decisions were also followed by this Tribunal

5. The question, whether the persons employed on temporary basis initially <sup>and</sup> <sup>short</sup> are subjected to artificial breaks <sup>and</sup> then reinstated again, are entitled to regularisation from the date of initial appointment, was considered in Writ Petition No.7269 of 1981 dated 17.11.1983 and Writ Appeal No.239 of 1980 dated 20.12.1985 by the High Court of Andhra Pradesh. After refering to the various Government of India orders, it was held by the Single Judge in W.P.No.7269 of 1981 as follows:-

" To substantiate their assertions, the petitioners furnished particulars in each case as to when they were appointed and in what establishments and seek relief to treat them regular employees or accord them the reliefs, they are entitled to, in one of all among the following instructions, issued by the Govt. of India, from time to time: (a) in letter No.2(17)51/10805/D(Civ), dated Sept.10, 1953 of the Ministry of Defence, the instructions are if for any reason a person is appointed for more than six months, he is not to be discharged and reemployed and he shall be deemed to be in service without break. Such individuals are to be considered casual but regular employees: (b) In the instructions issued to all commands in Lr.No.1(67)/333/D(Lab) dated January 54, the instructions in (a) are reiterated: (c) In instructions in Lr.No.(3)/65/11828/D(Civ-II), dt.Sept.26, 1966, non-industrial personnel employed for one year without break should be converted into regular employees (d) In M of D letter VO 18636/D9, Appts. dated Dec.,29, 66 it is directed all short term posts of less than three months duration, are to be filled through the Employment Exchange, and five guidelines were issued as to how and from what source, recruitments are to be made: (e) in Lr.No.83482/EC-4/Org.4 (d)1375/D(Civ-II) of the M of D, dt.Nov.,24, 1967, in para 4 it is ordered, in cases involving break in casual services, benefits of these orders will be admissible from the commencement of only the latest spell of continuous services without break and breaks, if any, should be ignored: (f) In Lr.No.79962/EIC dt.Feb.,18, 69, instructions were, after three months, services of casual personnel should be prepared. The practice of employing personnel for periods of less than six months, when anticipated requirement is for ever a period of 6 years was deprecated: (g) The Army Headquarters on March 18, 1972 especially in para (2) directed, the duration of vacancy should be determined before recruitment is made. If during casual employment, it is known the employment will last for more than six months, such a vacancy should

of action for the applicants therein had arisen in 1984 or earlier years but they had never agitated their claims till November 1986 and that the application was not within time. In so far as granting the benefit to such of the applicants, who were seniors to the claimants in the earlier litigation before the High Court and this Tribunal, the Tribunal was constrained to grant the relief to the said seniors despite the delay in filing the application (O.A.514 of 1986) since the Department itself had extended the benefit to certain senior Chowkidars despite the latter not being parties to the earlier litigation. Hence the relief was granted to the seniors on the principle that a junior who had litigated and got an earlier date of regularisation should not supersede the senior. ~~Thus~~ <sup>the</sup> the question of restricting the claim of the applicants herein or making it conditional provided any juniors have been given the relief would not arise in the present case. The only question for determination is whether the applicants herein also were guilty of inordinate laches or have delayed approaching the Tribunal. If they are guilty of laches, then the present application is liable to be dismissed as was done in O.A.514 of 1986 in regard to all applicants other than those applicants, whose juniors got the benefit of the earlier litigation. In regard to delay, it is to be noted that the applicants <sup>herein</sup> had all been appointed in 1982 and 1983 and their claim or cause of action would normally arise on the dates from which their services were regularised as given in column 4 of

in O.A.514 of 1986 dated 14-5-1987. In O.A.514 of 1986 the Tribunal while accepting the Judgement in W.A.239 of 1980 directed the respondents to extent the benefits only to such of the applicants, whose juniors got the benefit in W.A.239 of 1980 and W.P.7269 of 1981. In so far as the applicants herein are concerned, the contention of Shri T.Jayant is that they were all recruited in 1982 and 1983 and the question of any juniors getting the benefit does not arise. He, therefore, contends that the Judgement of the High Court in Writ Petition No.7269 of 1981 dated 17-11-1983 can be applied which relied already on the various instructions issued by the Government of India, Ministry of Defence.

6. Since this Tribunal had previously accepted the dicta laid down by the High Court in Writ Petition No.7269 of 1981 and followed in Writ Appeal No.239 of 1980 vide orders in T.A.511 of 1986 and O.A.514 of 1986, it follows that on the same analogy the applicants herein are also entitled to regularisation of services from the date of initial appointments as temporary (casual) LDCs ignoring the artificial breaks. The only objection of the respondents is that in O.A.514 of 1986 dated 14-5-1987 the Tribunal had restricted the above said benefit to <sup>and of the employees</sup> ~~only the applicants in that case~~ whose juniors were given the benefit pursuant to the judgements of the High Court in Writ Petition No.7269 of 1981, Writ Appeal No.239 of 1980 and T.A.511 of 1986. The reason for doing so was that the applicants in O.A.514 of 1986 were guilty of inordinate laches in approaching the Tribunal. It was noticed by the Tribunal in O.A.514 of 1986 that the cause

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applicants will be paid within a period of four months from the date of receipt of this order. The parties are directed to bear their own costs.

CERTIFIED TO BE TRUE COPY

.....*D. S. S. S. S. S.*.....

Date.....*24/4/91*.....

Court Officer

Central Administrative Tribunal

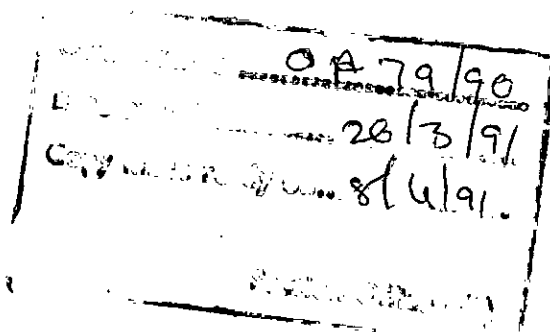
Hyderabad Bench

Hyderabad.

TO

1. The Secretary, Union of India,  
Ministry of Defence, New Delhi-1.
2. The Chief of Naval Staff, Naval 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. Q. SC. CAT Hyd-
6. One spare copy.

pvm





IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD

Rev.Appln. No. 37 of 1991

in

O.A. No. 79 of 1990

Date of order: 27 -6-1991.

Between

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



... APPLICANTS/  
Respondents

A N D

G.V.K.Raju  
& 40 others

... Respondents/  
Applicants

Appearance:

Counsel for the applicants : Shri Narram Bhaskara Rao,  
Addl.CGSC

Counsel for the Respondents : Shri T. Jayaram

CORAM:

The Hon'ble Shri B.N.Jayasimha, Vice-Chairman

The Hon'ble Shri D.Surya Rao, Member (Judicial)

O R D E R

(of the Bench passed in circulation)

This Review Petition is filed by the Respondents  
in O.A.No.79/90. By our order dated 26-3-1991 we had allowed  
the O.A. filed by the Respondents herein holding that they  
are entitled to regularisation of their services as Casual

be exercised on the discovery of new and important matter or evidence which after the exercise of due diligence was not within the knowledge of the person seeking the review or could not be produced by him at the time when the order was made; it may be exercised where some mistake or error apparent on the face of the record is found; it may also be exercised on any analogous ground. But it may not be exercised on the ground that the decision was erroneous on merits. That would be the province of a court of appeal."

The conditions laid down by the Supreme Court <sup>warranting review</sup> would not apply to the instant case. We accordingly find no valid grounds for reviewing our order in O.A.No.79/90. The R.P. is accordingly dismissed.  
No costs.

CERTIFIED TO BE TRUE COPY  
Date..... 31.7.91  
Court Officer  
Central Administrative Tribunal  
Hyderabad Bench  
Hyderabad.

mhb/  
To

1. The Secretary, Union of India, Min.of Defence, New Delhi.
2. The Chief of the Naval Staff, Naval H.Qrs. New Delhi.
3. The Flag Officer Commanding-in-Chief, H.Qrs, Eastern Naval Command, visakhapatnam.
4. One copy to Mr. N.Bhaskar Rao, Addl.CGSC.CAT.Hyd.
5. One copy to Mr.T.Jayant, Advocate, CAT.Hyd.
6. One spare copy.

pvm

20/8/91  
21/8/91  
22/8/91