

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A. 1399/94.

Dt. of Decision : 1-5-97.

1. M. Danaappalu
2. B. Koteswararao
3. K.A. Sundararao
4. D. Appa Rao
5. T. Brahmanandam
6. E.V. Govindarao
7. B. Lakshmanareddy
8. E. Samba Murthy
9. R. Chakraborty
10. N. Trinadharao
11. R.V.N. Rao
12. P. Chalapathirao
13. S. Appalaraju
14. B. Narasimham
15. V. Satyanarayana
16. K. Ramakrishnarao
17. S. Bandayya
18. K. Sanyasri Rao
19. B. Rama Rao
20. K. Lakshmana Rao

.. Applicants.

Vs

1. The Secretary,
GOI, Secy to Govt. South Block, DHQ P.O.
New Delhi.

2. The Chief of Naval Staff Naval
Head quarters, DHQ P.O, New Delhi.

Head quarters, ex. Commanding-in-chief,
Visakhapatnam.

4. The Admiral Superintendent
Naval Dockyard, Naval Base P.O.
Visakhapatnam.

.. Respondents

Counsel for the applicants : Mr. K. Sudakar Reddy, ...
Mr. P. S. N. Murthy

Counsel for the respondents. : Mr. V. Rajeswara Rao, Addl. CGSC.

CORAM:

THE HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.)

THE HON'BLE SHRI B. S. JAI PARAMESHWAR : MEMBER (JUDL.)

ORDER

ORAL ORDER (PER HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.))

for Mr. P. S. N. Murthy,
Heard Mr. K. Sudhakar Reddy/ learned counsel for the
applicants and W. Rajeswara Rao, learned counsel for the
respondents.

2. There are 20 applicants in this OA. They are
unskilled casual labourers working under R-3. Aggrieved
by the refusal of the authorities to count their service
from the date of their casual appointment for the purpose
of seniority etc, they ^{have} filed this OA. The relief prayed
for in this OA is for a direction to the respondents to
regularise their service from the date of their initial
appointment on casual basis as per the details given in
enclosures-1 page-9 of the OA ignoring the artificial breaks
with all consequential benefits.

The learned counsel for the applicants brought to
our notice that the applicants in this OA were referred
to the applicants in OA.259/91 which was disposed of on
27-10-93. The applicants further submit that they submitted
several representations on various dates for granting them the
same relief as was given to the applicants in OA.259/91. It
is stated that no reply has been given to those representations.
Hence, the applicants have filed this OA.

The learned counsel for the respondents submitted that the
question of granting them seniority from the date of their
initial engagement does not arise. He further contended that
the ^{regularisation} ~~regularisation~~ is based on the availability of the vacancies.
As there are no vacancy at present they cannot be regularised.
He further submitted that 251 unskilled casual labourers

still awaiting for absorption. Hence, the case of the applicants
cannot be considered in isolation for regularisation.

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4. We find that the case is more or less similar to the contentions raised in OA.259/91. The respondents cannot be compelled to regularise the service if there are no vacancy. Further, the applicants cannot claim seniority higher than the other casual labourers who have put in more number of days of service compared to the applicants. The applicants can be regularised only in their turn as and when vacancy arises. But their services should be counted from the date of their initial appointment for purpose of fixing their seniority, which is also applicable to other unskilled casual labourer who have not approached this Tribunal. The fixation of pay and allowances on the basis of the above direction should be done when they were regularised and on that basis if any arrears arise then the applicants are entitled to the arrears from one year prior to filing of this OA.

5. In the result, the following direction is given:-

In the conceptus of the facts and circumstances of the case, the applicants are entitled for deemed regularisation from the date of their initial casual appointment after they were absorbed in a regular posts in accordance with their seniority. The above method of regularisation is also applicable to other casual labourers who have not approached this Tribunal, as non-adherence of such a course of action will result in multiplicity of litigation. While regularising their services as above the artificial breaks if any should be condoned. After finalising their pay fixation of absorption in a regular posts and grant them regularisation from the date of their initial appointment.

any arrears arise on that basis the applicants are entitled for the same only from 9-11-93 i.e., one year prior to filing of this OA. (This OA was filed on 9-11-94).

6. The OA is ordered accordingly. No costs.

समाप्त
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आवालय अधिकारी

13-5-95

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Copy to:-

1. The Secretary, Min. of Defence, GCI, South Block, DHQ PO, New Delhi.
2. The Chief of Naval Staff Naval Headquarters, DHQ PO, New Delhi.
3. The Flag Officer Commanding in chief, Headquarters, E.N.C. Naval Base, Visakhapatnam.
4. The Admiral Supdt Naval Dockyard, Naval Base PO, Visakhapatnam.
5. One copy to Sri. P.S.N.Murthy, advocate, CAT, Hyd.
6. One copy to Sri. V.Rajeswara Rao, Addl. CGSC, CAT, Hyd.
7. One copy to Deputy Registrar(A), CAT, Hyd.
8. One spare copy.

nm/-

(Order per Hon'ble Shri R.Rangarajan, Member (A)).

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Heard Sri V.Rajeshwar Rao, standing counsel for the MA applicants and Sri Sudhakar Reddy for Sri PSN Murthy, counsel for the review respondents.

2. This MA is filed for condoning the delay of 197 days in application.
3. The review application has been filed by the Respondents in the OA for reviewing the judgement in OA 1399/94 decided on 1-5-97.
4. The first contention of the review applicants is that the OA was disposed of relying on the judgement in OA 259/91. The applicant in that OA was initially appointed for 89 days on casual basis and his work was interrupted with intermittent technical breaks whereas the applicant in this OA was initially appointed on daily wage basis. Hence that case cannot be quoted as a precedence^t for deciding this case. The principle laid down in OA 259/91 is not a point for consideration whether the initial appointment is a casual one for one day or for 89 days. The rule cannot be different. Hence this contention is rejected.
5. The second contention of the review applicant is that in OA 517/89 decided on 30-4-93, the decision taken in that case wherein the applicant therein was a casual labourer is different and on that basis this OA has to be rejected.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

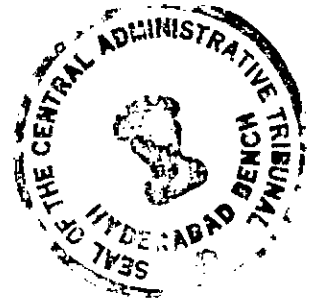
MA 126/97 in RASR 4137/97

IN
O.A.No.1399/94

DATE OF ORDER : 03-04-1998.

Between :-

1. The Secretary,
M/o Defence, South Block,
New Delhi.
2. The Chief of the Naval Staff,
Naval Headquarters, New Delhi.
3. The Flag Officer Commanding-in-Chief,
Eastern Naval Command, Visakhapatnam.
4. The Admiral Superintendent,
Naval Dockyard, Visakhapatnam.



... Applicants/Respondents

And

1. H.Danappalu
2. B.Koteswara Rao
3. KA Sundara Rao
4. D.Appa Rao
5. T.Brahmanandam
7. B.Lakshminandam Rao,
8. B.Samba Murthy
9. R.Chakraborty
10. N.Trinadha Rao
11. R V N Rao
12. P.Chalapathi Rao
13. S.Appalaraju
14. B.Narasimham
15. V.Satyanarayana
16. K.Ramakrishna Rao
18. K.Sanyasi Rao
19. B.Rama Rao
20. K.Lakshmana Rao

... Respondents/Petitioners

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For the Applicants : Shri V.Rajeshwara Rao, CGSC

Counsel for the Respondents : Shri P.S.N.Murthy

CURAM:

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

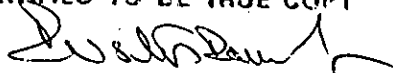
THE HON'BLE SHRI B.S.JAI PARAMESHWAR : MEMBER (J)

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D

6. Circumstances differ from case to case. It is not necessary that a case decided depending on certain circumstances should be taken to be applicable in other cases also as the circumstances may be different in the other cases. In the present case we have given the orders basing on the principles of natural justice and also following a ^tprecedence in this connection. Hence this contention is also rejected.

7. As we ~~do~~ find no merit in the RASR, no useful purpose will be served in allowing this MA. Hence the MA is dismissed and the RASR is rejected. Both the MA as well as RASR were considered separately before issuing this final order. No order as to costs.

प्रमाणित प्रति
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न्यायालय अधिकारी तथा रजिस्ट्रार (न्यायिक)
Court Officer/Dy. Registrar
केन्द्रीय प्रशासनिक न्यायालय
Central Administrative Tribunal
हैदराबाद न्यायपीठ
HYDERABAD BENCH