(25)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:

AT HYDERABAD

O.A.No.169 of 1997. DATE OF ORDER: _____.

Between:

U.G.K.Patro. .. Applicant

a n d

1. The General Manager,
   Naval Armament Depot,
   Visakhapatnam.

2. The Flag Officer Commanding-in-
   Chief, Eastern Naval Command,
   Visakhapatnam.

.. Respondents

COUNSEL FOR THE APPLICANT :: Mr.P.Bhasker

COUNSEL FOR THE RESPONDENTS:: Mr.K.Bhaskara Rao

CORAM:

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

A N D

THE HON'BLE SRI B.S.JAI PARAMESHWAR,MEMBER(JUDL)

: O R D E R :

(AS PER HON'BLE SRI B.S.JAI PARAMESHWAR,MEMBER(JUDL))

Heard Sri P.Bhasker, the learned Counsel for the Applicant and Sri.K.Bhaskara Rao, the learned Standing Counsel for the Respondents.

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2. This is an application under section.19 of the Administrative Tribunals Act. The application was filed on 6-2-1997.

3. The applicant was originally appointed as Electrical Fitter, Grade-II with effect from 10-8-1982 under the respondent Department. He was regularised with effect from 15-5-1984. He was promoted to HSK Grade-II with effect from 28-4-1987. His token number is T.No.2059.

4. He states to have submitted a representation to the respondents praying for regularisation of his earlier Casual/Temporary Service between 10-8-1982 and 14-5-1984 in response to their letter No.HCQ/ENG/CE/9303/170, dated:20-6-1995.

5. The respondents after considering his representation informed him through the impugned letter No.VAE/1236/SL, dated:21-11-1996 refusing his request for regularisation of his earlier Casual/Temporary Service from 10-8-1982.

6. He has filed this OA challenging the impugned letter dated:21-11-1996 and praying for a consequential direction to the respondents to regularise his earlier Casual/Temporary Service and to fix his seniority accordingly.

7. The respondents have filed a counter stating that the applicant was initially appointed purely on casual basis for a period of 89 days and that his casual services were continued with intermittent breaks. During his casual service, he was engaged as Fitter Armament Fuse(SK), a different post in other trade and that he was absorbed as Torpedo Fitter, HSK grade-II. The respondents have detailed in para.7 of their reply the intermittent breaks the applicant had between 10-8-1982 and 14-5-1984.

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8. The factual aspect of engaging the applicant as a Casual/Temporary employee between 10-8-1982 and 14-5-1984 under the respondent Department, his further regularisation and promotion to HSK Grade-II are not at all in dispute.

9. The respondents issued a seniority of Torpedo Fitter HSK Grade-II as on 1-11-1996. The applicant's name was shown at Serial No.22. His seniority was fixed taking into consideration his date of regularisation i.e., from 15-5-1984 and his date of promotion to the grade as 28-4-1987.

10. The applicant submitted a representation dated:9-1-87 (Annexure.5, page.12 to the OA) to fix his seniority considering his past casual service. He was informed by the impugned letter dated 22-11-1996 that his seniority has been fixed as per the existing rules.

11. The point that arises for our consideration is whether the past casual service rendered by the applicant from 10-8-1982 to 14-5-1984 can be taken into consideration to fix his seniority.

12. Similar question came up for consideration before this Tribunal in the case of M.V.N.MURTHY & OTHERS Vs K.TRIMURTHULU & OTHERS. In that case this Tribunal formed an opinion that the past casual service cannot be taken into consideration while fixing the seniority and held that the promotion of the ~~applicants~~ respondents was irregular. The ~~applicants~~ respondents approached the Hon'ble Supreme Court in Civil Appeal No.880 of 1994. The said appeal was disposed of on 11-2-1998.

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13. The Judgement case is reported in 1998 LAB I.C. LABOUR & INDUSTRIAL CASES page 2523. In para.6 the Hon'ble Supreme Court agreeing with the view taken by this Tribunal has observed as follows:-

> "6. We have gone through both the Circulars and are satisfied that the Tribunal while laying down that the seniority of the appellants could be reckoned from the date of their regular appointment did not commit any error and has acted strictly in accordance with the Circular letters issued by the Ministry of Defence. Since it was the consistent policy of the Ministry of Defence that benefit of seniority would be allowed to casual employees only with effect from the date on which they are appointed on regular basis and that the period of casual service would not be counted towards seniority, the Tribunal was fully justified in recording the findings that the respondents would be senior to the appellants and that the Naval Dockyard was in error in treating the appellants as senior."

14. In that view of the matter the casual service of the applicant prior to his regularisation cannot be taken into consideration for the purpose of his seniority.

15. In view of what is stated above, the OA is liable to be dismissed. Accordingly, the OA is dismissed.

(B.S.JAI PARAMESHWAR)
MEMBER(JUDL)
20.10.98

(H.RAJENDRA PRASAD)
MEMBER(ADMN)

Dated:this the 20 OCT 98

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DSN

OA.169/97

Copy to :-

1. The General Manager, Naval Armament Depot, Visakahpatnam.
2. The Flag Officer, Commanding-in-Chief, Eastern Naval Command, Visakhapatnam.
3. One copy to Mr. P.Bhasker, Advocate, CAT., Hyd.
4. One copy to Mr. K.Bhaskara Rao, Addl.CGSC., CAT., Hyd.
5. One copy to HBSJP M(J), CAT., Hyd.
6. One copy to D.R.(A), CAT., Hyd.
7. One duplicate copy.

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II COURT

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE SHRI ~~R.RANGARAJAN~~ H. Rajendra Prasad : M(A)

AND

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

DATED: 20/10/98

~~ORDER~~/JUDGMENT

~~M.A./R.A/C.P.NO.~~

in
O.A.NO. 169/97

ADMITTED AND INTERIM DIRECTIONS ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

YLKR