

**Central Administrative Tribunal
Madras Bench**

OA 310/00950/2016

Dated Wednesday the 3rd day of July Two Thousand Nineteen

P R E S E N T

Hon'ble Mr. T. Jacob, Member (A)

J. Anbudoss
Door No. 9/3, Workmen Line
CFA Estate
Aruvankadu – 643 202
The Nilgiris.

... Applicant

By Advocate **M/s. Giridhar & Sai**

1. Union of India rep. by
The Secretary to the Government of India
Ministry of Defence
South Block, DHQ (PO)
New Delhi – 110 011.

2. The Commandant
Officers Training Academy
St Thomas Mount
Chennai – 600 016.

3. The Senior Quality Assurance Officer
Senior Quality Assurance Establishment (ME)
Cordite Factory Campus
Aruvankadu – 643 202
The Nilgiris.

... Respondents

By Advocate **Mr. P. Srinivasan**



ORAL ORDER

Pronounced by Hon'ble Mr. T. Jacob, Member(A)

Heard. The applicant has filed this OA under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:

"To call for all connected records of pursuant to the impugned order bearing No. 4715/RPR/Adhoc/Docu dated 01 July 2015 of the 2nd respondent and set aside the same being arbitrary, contrary to rules, and direct the respondents to extend all the benefits directing the respondents to regularise the casual service rendered by the applicant from the date of his initial appointment prior to the regular appointment on 01.08.1989 as Orderly, i.e. from 26.06.1986 to 31.07.1989, in twelve spells totalling to 1014 days – with all consequential benefits, as granted in case of similarly situated persons working under the Ministry of Defence, within the time schedule stipulated by this Tribunal in the substantial interest of equity, fairness and good conscience and or pass any such orders or directions"

2. The brief facts of the case as stated by the applicant are as follows:

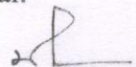
The applicant was appointed as GC Orderly on 26.06.1986 on casual/ad hoc basis at the 2nd respondent Office. He worked as GC with 2nd respondent from 26.06.1986 to 31.17.1989 in twelve spells. Later, he was appointed on regular basis in the same grade. On 20.07.1992, he was transferred to the office of the 3rd respondent in the same post. The applicant filed representations seeking regularisation of services from the date of his initial appointment prior to the regular appointment as per DOPT orders with all consequential benefits. The second respondent rejected the representation stating that the DOPT scheme is

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applicable only to those who were in service as on 10.09.1993 vide impugned order No. 4715/RPR/Adhoc/Docu dated 01 July 2015. Hence this OA.

3. The respondents have filed reply statement. It is stated in the reply that the applicant was appointed on regular basis with effect from 01.08.1989 against the regular vacancies released by the Government. Also it is stated that the applicant was appointed on regular basis before the implementation of the Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Government of India, 1993 and hence he is not eligible under the Scheme. The Government had imposed a strict ban on employment since Jan 1984 in any vacancies, therefore appointment could not be made on regular basis unless and until release orders were received from the Government. Further it is stated that the Government released certain vacancies for appointment on regular basis, the applicant was given fresh appointment on 01.08.1989 on regular basis in the existing vacancies, as per the Recruitment procedures, duly convening Recruitment Board, Medical Examination, Police Verification etc and the individual was kept on probation for two years from the date of appointment.

4. When the case was taken up for hearing, the learned counsel for the applicant would submit that the applicant made three representations in Annexure AA01, AA02 and AA03 dated 05.02.2018, 06.02.2018 and 08.02.2018 respectively to the respondents and submits that he will be satisfied if his representations are considered by the competent authority in the light of the orders passed by this Tribunal within a time frame stipulated by this Tribunal.



5. Learned counsel for the respondents has no objection for the same.
6. In view of the above the respondents are directed to consider Annexure AA01, AA02 and AA03 representations of the applicant dated 05.02.2018, 06.02.2018 and 08.02.2018 respectively in the light of the orders passed by this Tribunal in accordance with law and pass a reasoned and speaking order within a period of three months from the date of receipt of copy of this order. The dictum of the Apex Court laid down in para 16 of judgement in Union of India vs M.K.Sarkar (2010) 2 SCC 59 would apply to this case as well. The Apex Court in the said case held as under:-

“16. A court or tribunal, before directing “consideration” of a claim or representation should examine whether the claim or representation is with reference to a “live” issue or whether it is with reference to a “dead” or “stale” issue. If it is with reference to a “dead” or “stale” issue or dispute, the court/ tribunal should put an end to the matter and should not direct consideration or reconsideration. If the court or tribunal deciding to direct “consideration” without itself examining the merits, it should make it clear that such consideration will be without prejudice to any contention relating to limitation or delay and latches. Even

if the court does not expressly say so, that would be the legal position and effect”.

7. The OA is disposed of with the above directions. No costs.