

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCHDated the Tuesday 14th day of February Two Thousand And Seventeen

PRESENT:

THE HON'BLE MR. JUSTICE A. ARUMUGHASWAMY, MEMBER (J)
THE HON'BLE MR. R. RAMANUJAM, MEMBER (A)

O.A./310/00296/2014

1. A.P. Balasubramaniam,
S/o. K.Narayana Nair,
Aged about 53 years,
Working as Messenger,
ATNK & K Area,
Residing at 27/22,CPWD Quarters,
K.K. Nagar, Chennai-78;
2. K. Kavaiah
S/o. K. Karuppa Samy,
Aged about 51 years,
Working as Messenger,
ATNK & K Area,
Residing at No. 18/3, VOC Street,
Cholan Nagar, Thirumulaivayal,
Chennai- 600 109.
3. S. Velayudham,
S/o.M.Sundaram,
Aged about 50 years,
Working as Messenger,
ATNK & K.Area,
Residing at No. 14/29,
Albert Ponnuswamy Street,
Gandhi Nagar,East Tambaram,
Chennai- 600 059;



4. K. Thilakavathi,
W/o. T. Rajakumar,
Aged about 57 years,
Working as Messenger,
TNK & K Area,
Residing at No.6/2,
Karunegar Street,
Vadapalani,
Chennai- 600 026.

....Applicants

(By Advocate : M/s. Giridhar & Sai)

VS.

1. Union of India,
Rep. by the Secretary,
Ministry of Defence,
New Delhi- 110 001;
2. Additional Director General of Movements,
Director General of Operational Logistics & SM,
General Staff Branch,
Integrated HQ of MOD (Army),
New Delhi – 110 011;
3. The Commandant,
Embarkation Headquarters
Fort St. George, Chennai.

...Respondents

(By Advocate: Mr. C. Kulanthaivel)

ORAL ORDER

(Pronounced by Hon'ble Mr. Justice A. Arumugaswamy, Member (J))

The case of the applicants is that 1st, 2nd, 3rd and 4th applicants joined service as casual labourer under the 3rd respondent on 14.5.1980, 16.2.1981, 15.09.1981 and 11.02.1981 respectively and worked continuously for more than five years. They were given artificial breaks in order to deny regularization. Therefore, applicants along with others filed O.A. No. 680 of 1989 seeking to regularize their services from the date of their initial appointment with all other consequential benefits, which was allowed on 19.8.1990. Pursuant to the orders of the Tribunal, applicant was regularized against the regular vacancies of Group D posts. The 1st applicant was regularized in the post of Lascar on 31.3.1993, the 2nd applicant was regularized in the post of Messenger on 09.08.1990, the 3rd applicant was regularized in the post of Lascar on 09.08.1990, the 4th applicant was regularized in the post of Mazdoor on 09.08.1990 and the 5th applicant was regularized in the post of Lascar on 31.3.1993 and the 6th applicant was regularized in the post of Chowkidar 09.08.1990. Subsequent to the regularization of the applicants, the Department of Personnel and Training introduced "Casual Labourers (Grant of Temporary Status and Regularization) Scheme of Government of India 1993 was issued, by which, several casual labourers working under various departments were regularized under the scheme. By OM dated 29.01.1998, it was clarified that the pay of casual workers with temporary status on regularization against Group D post may be fixed at the minimum of the pay scale of the relevant Group D post. Subsequently,

by OM dated 09.05.2008 in supersession of the OM dated 29.01.1998, has been communicated. It needs to be stated that ordinarily temporary service was conferred upon completion of six months of casual service. That the applicants were regularized in service pursuant to the order of the Tribunal in OA No. 680 of 1989 much prior to the implementation of the scheme dated 10.09.1993. A reading of the para 3 of the OM dated 09.05.2008 would reveal that the OM shall be applied retrospectively and the applicants are entitled for the pay benefits as stipulated in the OM. Several of the juniors to the applicants had been granted the benefit of pay fixation under the said OM. Subsequently by an order dated 22.2.2013 the 2nd respondent has communicated to the 3rd respondent that all the casual labours employed under the respondents are eligible for fixation of pay after grant of benefit of past services by grant of annual increments in view of OM dated 09.05.2008. Hence, the applicants are eligible for fixation of pay after taking into account the increments already earned by them in a Group D pay scale, on the basis of which wages were paid, while they were working on casual basis. The applicants therefore submitted representations dated 11.03.2013 seeking refixation of pay by granting them the benefit of the said OM. But by order dated 26.7.2013 the representations of the applicants were rejected on the ground that the post of casual labour is not authorized and that the grant of temporary status does not arise in the case of the applicants who were regularized prior to 08.08.1990. Therefore, they filed the instant O.A. seeking the following reliefs:-

"(i) to call for the records of Order No. 301/Est/Civ, dated 26.7.2013 passed by the 3rd Respondent and quash the same;

(ii) to direct the Respondents to fix the pay of the applicants by granting notional increments for the period of their casual service beyond the initial six months in Group D posts with all consequential benefits, including arrears of pay and allowances."

2. Reply has been filed by the respondents. After going through the reply filed by the respondents, nothing significant has been stated in it. If there is a logic to grant notional increments to persons who worked as casual labourers, granted temporary status and then regularized, there is no reason why a similar benefit should be denied to the applicants who had been regularized directly from casual labourer on the basis of the order of the Tribunal.

3. As the applicants are seeking fixation of pay by granting notional increments for the period of their casual service with temporary status beyond the initial six months in Group D posts, they should be entitled to the relief subject to verification of service records. Learned counsel for the applicants submit that although in the relief the applicants have sought consequential benefits including arrears of pay and allowances, the applicants would not press for that relief and they would be satisfied if the benefit of notional increments for the period of their casual service beyond the initial six months in Group D post is granted to the applicants.

4. In view of the above, the O.A. is allowed and respondents are directed to fix the pay of the applicants after due verification of service records and grant notional increments for the period of their casual

service with temporary status in Group D posts on par with others who were regularized under the 1993 scheme.

5. With the above direction, the O.A. is allowed. There shall be no order as to costs.