

**CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH
(CIRCUIT AT PORT BLAIR)**

No. O.A. 120/AN/2016

Date of order: 03.06.2019

**Present: Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Mr. N. Neihial, Administrative Member**

Mrs. Bhanumati, w/o Shri Rampal Govind
R/o Garacharama, South Andaman District
Presently working as Physical Education Teacher and
posted at Government Senior Secondary School
Adazig, Baratang, South Andaman District.

.. Applicant

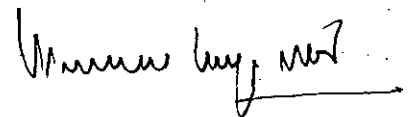
-Versus-

1. Union of India (through the Secretary
Ministry of Human Resource Development)
Department of Education)
Shastri Bhavan, New Delhi – 110001.
2. The Lt. Governor, Andaman & Nicobar Islands
Raj Niwas, Port Blair – 744101.
3. The Chief Secretary, A & N Administration
Secretariat Building, Port Blair.
4. The Secretary-cum-Director (Education)
Andaman & Nicobar Administration
Secretariat Building, Port Blair.

.. Respondents

For the Applicant : Mr. R. Singh & Mr. T.K. Das

For the Respondents : Md. Tabraiz



ORDER (ORAL)

N. NEHSIAL, MEMBER (A):

This O.A. has been preferred by the applicant under Section 19 of the Central Administrative Tribunal Act, 1985 seeking the following main reliefs:

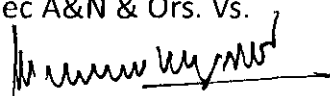
" 8(A) An order do issue directing the respondents to regularize the adhoc service of the applicant w.e.f. 01.02.1999 to 11.07.2003 by condoning the artificial breaks as done in the case of P.T. Elizabeth and others;

OR

- (B) An order do issue directing the respondent authorities to allow pay fixation from the date of initial adhoc service as allowed in case of other Physical Education Teachers vide order No. 1293 dated 21.04.2016.
- (C) An order be passed directing the respondent authority to release consequential benefits arising consequent to grant of Prayer (A) or (B) herein above.
- (D) Any such order or orders be passed and or direction or directions be given as this Hon'ble Tribunal may deem fit and proper.
- (E) Cost and incidentals to this application."

2. Grounds for relief of the applicant are:-

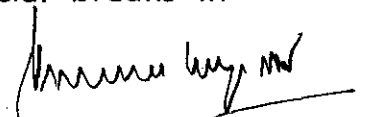
- (i) That the Hon'ble Supreme Court in **Rattan Lal Vs. State of Haryana AIR 1987 SC 478** has held that policy of "adhocism" for a period is in breach of Articles of Articles 14 and 16 of the Constitution of India.
- (ii) The respondent authorities have appointed the applicant against the existing vacancies on adhoc basis and as such failed to discharge its function as a model employer.
- (iii) The respondent authorities have regularized the services of P.T. Elizabeth from 10.08.1978 to 23.06.1987 at a belated stage by an order dated 14.11.2013 and as such, the respondents are stopped from raising the plea of limitation.
- (iv) The applicant being appointed from the very beginning in a pay scale and as such entitled to the benefit of order passed in the case of Lt. Governor, Thru Sec A&N & Ors. Vs.



Parimal Halder decided on 13.01.2015 by the Hon'ble Supreme Court of India.

- (v) The applicant served continuously with effect from 01.02.1999 with artificial breaks on account of summer vacations till her appointment on regular basis made vide order dated 11.07.2003 and as such, liable to get benefit of ad hoc service for the purpose of pay fixation on her regular appointment.
- (vi) That claim of correct fixation of pay is a recurring cause of action because claim for payment of correct salary throughout service give rise to a fresh cause of action each time the salary is incorrectly computed and paid.
- (vii) That the applicant was duly selected and her name appeared in overall merit list and as such, the service rendered on adhoc basis with artificial breaks is liable to be taken into consideration for the purpose of pay fixation/regularization ignoring the artificial breaks as done in case of other similarly situated to employees.
- (viii) That applicant is similarly circumstanced as those who has been granted benefit of adhoc service by the respondent authority and as such the applicant legitimately expects to be treated similarly.
- (ix) That the medium of adhoc appointment with artificial breaks during summer vacations was devised so as to avoid proper payments to the applicants which is contrary to the functions of the State which is expected to be an model employer.
- (x) The action of the respondent authority, by not treating the applicant alike with other similarly situated teachers, is in contravention of the equality clause contained in Article 14 of the Constitution of India.

3. Facts of the case are that the applicant was appointed on ad hoc basis as Physical Education Teacher, Government Senior Secondary School, Adazig, South Andaman District for a period of three months on a basic pay of Rs. 5000/- pm in the scale of pay of Rs. 5000-150-8000 plus usual allowance as admissible under the rules vide order No. 372 dated 01.02.1999 along with other candidates/individuals. This appointment on ad-hoc basis was extended from time to time with artificial breaks in

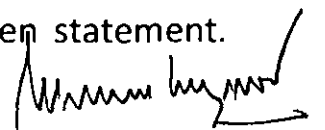


between. Finally the applicant was appointment on regular temporary basis in the year 2003 vide order No. 2840 dated 11.07.2003. But the period of ad hoc service from 1999 to 2002 was not counted for the purpose of pay fixation.

4. The applicant in the instant O.A. has pointed out that similar individuals who have been appointed by the same order No. 372 dated 01.02.1999 at serial No. 13, 17, 22 & 23 were appointed on ad hoc basis have been given the benefits of pay fixation from the date of their initial appointment condoning the artificial breaks given at that relevant period. A copy of the relevant order No. 1293 dated 21.04.2016 in terms of Hon'ble High Court order dated 11.12.2012 and 04.03.2012 passed in W.P.C.T. No. 683, 684, 685 & 686 of 2012 affirmed by the Hon'ble Supreme Court in SLP Nos. 31187, 33490, 33491, 36147 of 2013 has been enclosed by the applicant with this O.A. which are as under:

Sl. No.	Name & Designation	School to which attached & DDO	Date of initial appointment on ad-hoc basis
1.	Shri. Peter Kennedy, PET	Principal, Govt. SSS, Diglipur	09/08/1999
2.	Shri. Parimal Halder, PET	Principal, Govt. SSS Mannarghat	01/02/1999
3.	Shri. P. Usman, PET	Principal, Govt. SSS Mannarghat	01/02/1999
4.	Smti. Sandhya Mistry, PET	DEO, Mayabunder	01/02/1999

5. We have gone through the submissions/documents and records filed by the learned counsel for the applicant. It is observed from the records that the respondent authorities inspite of having given a number of opportunities by this Tribunal, have not filed any reply/written statement.



The last chance was given on 17.12.2018.

6. We have perused the records. It is observed that it is a matter of similar treatment to similarly situated individuals. Since the others have already been given the benefit of counting ad hoc period for the purpose of pay fixation from the date of their initial appointment, the applicant deserves to be granted the same benefits.

7. Accordingly, we hereby direct the respondent authorities to give benefit of pay fixation by counting the period from 01.02.1999 to 11.07.2003 by condoning the artificial breaks as done in the case of **P.T. Elizabeth and Ors.**

8. This may be complied with by the respondent authorities within a period of one month from the date of receipt of a copy of this order.

9. O.A. stands disposed of accordingly. There shall be no order as to the costs.

(N. Neihsial)
Administrative Member

(Bidisha Banerjee)
Judicial Member