

CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH

Original Application No. 180/00039/2019

Tuesday, this the 17th day of December, 2019

CORAM:

Hon'ble Mr. E.K. Bharat Bhushan, Administrative Member
Hon'ble Mr. Ashish Kalia, Judicial Member

A.P. Rajappan, aged 59 years, S/o. C.A. Pavithran (late),
 Mastercraftsman (Air Radio), Naval Aircraft Yard/ Naval Base/
 Kochi-682 004, Residing at : Ammanezhath House, Aroor PO,
 Alappuzha District, Pin- 688534. **Applicant**

(By Advocate : Mr. T.C. Govindaswamy)

V e r s u s

1. Union of India, represented by the Secretary
 to the Government of India, Ministry of Defence (Navy),
 New Delhi – 110 011.
2. The Chief of the Naval Staff, Directorate of Civilian Personnel
 Integrated Headquarters of Ministry of Defence (Navy),
 New Delhi – 110 011.
3. The Flag Officer Commanding-in-Chief,
 Head Quarters Southern Naval Command,
 Naval Base, Kochi – 682 004. **Respondents**

(By Advocate : Mr. T.C. Krishna)

This application having been heard on 03.12.2019 the Tribunal on
 17.12.2019 delivered the following:

ORDER

Hon'ble Mr. Ashish Kalia, Judicial Member –

The relief claimed by the applicant are as under:

“(i) Declare that the non-feasance on the part of the respondents to
 consider and promote the applicant as Chargeman (AR) with effect from
 1.10.2018 is arbitrary, discriminatory and unconstitutional;

- (ii) Direct the respondents to consider and promote the applicant as Chargeman (AR) with effect from 1.10.2018 and direct further to grant all the consequential benefits arising therefrom, including in the matter of pension and other retirement benefits;
- (iii) Award costs of and incidental to this petition;
- (iv) Pass such other orders or directions as deemed just fit and necessary in the facts and circumstances of the case.”

2. The brief facts of the case are that the applicant who is an ex-serviceman was re-employed as a Mechanic on 24.4.2001 under the 3rd respondent. Presently he is working as a Master Craftsman (Air Radio) in PB-2 plus Grade Pay of Rs. 4,200/-. The grievance of the applicant relates to non-consideration of the applicant for promotion as Chargeman (Air Radio) against an existing vacancy, notwithstanding the fact that the applicant is due to superannuate from service on 30.4.2019. The applicant submitted a representation to consider him for promotion against the vacant post. However, there is no response from the respondents. The applicant submits that in terms of Annexure A4 OM of DoP&T, if there is only one vacancy in any recruitment year, it should be treated as unreserved irrespective of it falling against a reserved point. It should be filled accordingly and the reservation carried forward to subsequent three recruitment years and even if there is only one vacancy in the subsequent year, it should be treated as reserved against the carried forward reservation from the initial recruitment year and a SC/ST candidate if available should be appointed in that vacancy. The applicant submits that the vacancy that had arisen on 1st October, 2018 is the vacancy of the year and therefore, even if that vacancy falls at a reserved point that should be treated as

unreserved and the next available person in the seniority list should be promoted against that vacancy. The applicant is the senior most qualified candidate. Since no action was taken by the respondents, aggrieved the applicant has filed the present OA.

3. Notices were issued to the respondents. They entered appearance through Shri T.C. Krishna, Sr. PCGC who filed a reply statement contending that 13 Chargemen are borne against the sanctioned strength of 14 in the Air Radio trade. The lone vacancy available in the post is against ST reserved point viz. 42nd point in the reservation roster. On implementation of the VI CPC recommendation, three tier structure of Technical Supervisory staff of Aviation cadre was replaced by two tier structure w.e.f. 1.1.2006. Accordingly, the rosters were rewritten as per the revised trade structure. The names of 8 individuals were omitted inadvertently from the revised roster for the post of Chargeman (Air Radio). The above anomaly was noticed in 2017 and the names have been included in the roster. Accordingly, there occurred a change in the roster points. Running roster is being followed for the post of Chargeman (Air Radio) and hence after correction the number of individuals exceeded the point No. 42 (ST) in the reservation roster. The respondents further submit that had the erroneous omission as stated above were not taken place, the ST point would have actually occurred in the year 2014-2015. However, the same was filled up by UR candidate in 2014-2015 inadvertently since the omissions were not noticed. Therefore, the vacancy year 2017-18 cannot be considered as initial year for the above said ST vacancy. Since there was no

eligible ST reserved candidate the vacancy was kept unfilled in 2017-2018 and the applicant cannot be considered for the said reserved vacancy. The post of Chargeman (Air Radio) is following a running roster and not a replacement roster. The respondents pray for dismissing the OA.

4. Heard Shri T.C. Govindaswamy, learned counsel appearing for the applicant and Shri T.C. Krishna, Sr. PCGC learned counsel appearing for the respondents. Perused the record.

5. The short point to be considered in this case is whether the ST vacancy of Chargeman (Air Radio) for the year 2017-18 can be considered as an initial year for the ST vacancy in order to fill up by UR candidate in view of Annexure A4 DoP&T OM ?

6. The respondents very categorically stated in the reply statement that 13 Chargemen were borne against the sanctioned strength of 14 in the Air Radio trade. The lone vacancy available in the post is against ST reserved point viz. 42nd point in the reservation roster. The respondents on implementation of the VIth CPC recommendations formulated a two tier structure w.e.f. 1.1.2006 replacing the earlier three tier structure of Technical Supervisory staff of Aviation cadre. Accordingly, they rewritten the rosters as per the revised trade structure. However, as contended by them the names of 8 individuals were omitted inadvertently from the revised roster for the post of Chargeman (Air Radio). The said anomaly was noticed only in 2017 and accordingly the names were included in the roster. The

respondents follow running roster for the post of Chargeman (Air Radio) and after correction the number of individuals exceeded the point No. 42 (ST) in the reservation roster. Thus the ST point actually occurred in the year 2014-2015 but the same was filled up by UR candidate in 2014-2015 inadvertently. Therefore, according to them the vacancy year 2017-18 cannot be considered as initial year for the ST vacancy. As there were no eligible ST reserved candidates, the vacancy was kept unfilled in 2017-2018 and hence, the applicant cannot be considered for the said reserved vacancy. We find that the post of Chargeman (Air Radio) is following a running roster and not a replacement roster. Though Smt. M.K. Bindu belongs to ST category, she was occupying the UR point being promoted on merit. Further consequent on promotion of Smt. M.K. Bindu and Smt. Anitha R. Nair as Foreman, only one vacancy was actually created in Chargeman (Air Radio). The applicant is eligible to be promoted in the next arising UR vacancy. During the course of hearing it was informed to us that the applicant was subsequently promoted as Chargeman (Air Radio) vide order No. CS 2760/30, dated 5th April, 2019.

7. Therefore, in view of the above the present Original Application has become infructuous. Accordingly, the OA is disposed of as infructuous. No order as to costs.

(ASHISH KALIA)
JUDICIAL MEMBER

(E.K. BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

“SA”

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APPLICANT'S ANNEXURES

- Annexure A1** - True copy of order bearing CS/2760/30 dated 1.10.2018 issued on behalf of the 3rd respondent.
- Annexure A2** - True copy of representation dated 16.10.2018 addressed to the 3rd respondent.
- Annexure A3** - True copy of reminder dated 30 Nov 2018, submitted to the 3rd respondent.
- Annexure A4** - True copy of Personnel & Administrative Reforms OM No. 1/9/74-Estt (SCT) dated 29 April 1975.
- Annexure A5** - True extract of seniority list – Mech (Air Radio) (MCM) circulated by the respondents.

RESPONDENTS' ANNEXURES

- Annexure R-1(a)-** Copy of pre-revised reservation roster of Chargeman (AR).
- Annexure R-1(b)-** Copy of revised reservation roster of Chargeman (AR).

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