

CENTRAL ADMINISTRATIVE TRIBUNAL

**ERNAKULAM BENCH
CIRCUIT BENCH SITTING
AT KAVARATTI
UT OF LAKSHADWEEP**

Original Application No.181/00514/2018

Saturday, this the 14th day of December, 2019

**HON'BLE MR.JUSTICE L.NARASIMHA REDDY, CHAIRMAN
HON'BLE MR.E.K.BHARAT BHUSHAN, ADMINISTRATIVE MEMBER**

Muhammed Safiyulla K.C, aged 35 years
residing at Kuttiyachada House
Kalpeni Island, U.T of Lakshadweep
Pin 682 557
Presently working as Junior Engineer, Lakshadweep Public
Works
Department, Kilthan Island 682 558 **Applicant**

(By Advocate – Mr.T.P.Nishad Khan)

V e r s u s

1 The Administrator, Union Territory of Lakshadweep
Kavaratti Island, Pin 682 555

2. Secretary (Works) Lakshadweep Administration
Kavaratti Island, U.T of Lakshadweep – 682 555

3. Superintending Engineer
Lakshadweep Administration
Lakshadweep Public Works Department
Circle Office of the Superintending Engineer
Kavaratti Island, U.T of Lakshadweep – 682 555

4. Najmunnisabi K.I, aged 35 years
residing at Kakkaillam House, Kalpeni Island
U.T of Lakshadweep, Pin 682 557
(Presently working as Junior Engineer, LPWD
Kavaratti Island)

5. Department of Personnel & Training
Ministry of Personnel
Public Grievances & Pensions
Government of India represented by
its Secretary **Respondents**

**(By Advocate – Mr.S.Manu for R 1 to 3 &
Mr.K.C.Muraleedharan,ACGSC for R 5)**

This Original Application having been heard on 14.12.2019, the Tribunal on the same day delivered the following:

O R D E R (ORAL)

JUSTICE L.NARASIMHA REDDY, CHAIRMAN

The Office of Superintending Engineer, Public Works Department, Union Territory of Lakshadweep issued a Notification dated 07.10.2005 proposing to recruit candidates for the post of Junior Engineer. Two posts each for physically handicapped candidates and general candidates were earmarked. The applicant responded in respect of unreserved post, whereas the 4th respondent applied against a reserved vacancy. The Selection Committee selected both of them against their respective categories. They were also issued orders of appointment.

2. The 3rd respondent issued a provisional seniority list dated 05.08.2015, wherein the applicant was shown at Sl. No.85, and the 4th respondent is placed at Sl. No.84. The applicant objected to the same by filing a representation. In the final seniority list dated 10.07.2017, the applicant was shown at Sl. No.5 and the 4th respondent at Sl. No.4.

3. This OA is filed challenging the final seniority list insofar it has shown the 4th respondent above the applicant. The applicant contends that he was selected against a

general vacancy whereas the 4th respondent was selected against a reserved vacancy, which is bound to be not at par with the merit of a general candidate. He contends that the Minutes of the Selection Committee were also not properly drafted, and taking advantage of that, the 4th respondent was placed above him. In this background, the applicant challenged the final seniority list dated 10.07.2017.

4. The 4th respondent remained ex-parte. On behalf of respondent Nos.1 to 3, a reply statement is filed. It is stated that the seniority in the post of Junior Engineer was decided strictly in accordance with law and that no interference is warranted.

5. We heard Shri T. P. Nishad Khan, learned counsel for the applicant and Shri S. Manu and Shri C. Rajendran for Shri k. C. Muraleedharan, learned counsel for the respondents.

6. Through Notification dated 07.10.2005, the 3rd respondent proposed to fill 4 posts of Junior Engineer. Out of them, 2 posts were available for general candidates and remaining two for physically handicapped candidates. In matters of this nature, the Selection Committee proceeds with the selection of general candidates so that if a candidate belonging to a reserve category does not make it to the selection, he would be considered against the reserve

category. In the instant case, however, the proceedings have been taken place in the reverse direction.

7. In the Minutes, the Selection Committee has first indicated the names of the candidates against reserve category, and thereafter the candidates against the general category. The gist submitted by the Committee is as under:-

“1. **Reserved for Physically Handicapped candidate**

1. Kum. Najmunnissabi, K. I.

II. **General Category**

2. Shri Mohammed Safiyulla, K. C.

Wait List for General Category

1. Shri Mohammed Ifthikar Ali, M. K.

This does not reflect the order of merit. It is not a case where the applicant was selected against the vacancies which were otherwise meant for reserved category, and was selected on account of non-availability of such candidates.

8. In categorical terms, it was mentioned that the applicant is selected in the general category, whereas the 4th respondent, against a reserve category. The procedure adopted by the respondents in placing the 4th respondent above the applicant in the seniority list is not correct. Things would have been different altogether, had the

Selection Committee assigned marks and the 4th respondent secured more marks than the applicant. Such is not the case here, and the 4th respondent cannot be placed above the applicant.

9. We, therefore, allow the OA and direct that the impugned order shall be modified in such a way that the 4th respondent is placed below the applicant. There shall be no order as to costs.

(E.K.BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

(JUSTICE L.NARASIMHA REDDY)
CHAIRMAN

SV

List of Annexures

Annexure A-1 - The true copy of notification dated 7.10.2005 Published by the 3rd respondent

Annexure A-2 - The true copy of select list was published vide notice dated 25.7.2008

Annexure A3 - The true copy of provisional seniority list was published by the 3rd respondent vide Office Memorandum dated 5.8.2015

Annexure A4 - The true copy of relevant pages of Office Memorandum No.20011/1/2008-Estt.(D) dated 11-11-2010 published by the Department of Personnel & Training

Annexure A5 - The objection submitted by the applicant dated 18.8.2015 to Annexure A3 provisional seniority list

Annexure A6 - The earlier office memorandum published by the Department of Personnel & Training dated 4.11.1992

Annexure A7 - The FAQ with respect to the principles of determination of seniority for direct recruits published by the Department of Personnel & training in Office Memorandum No.20011/1/2008-Estt.(D) dated 11.11.2010

Annexure A8 - The true copy of final seniority list published by the 3rd respondent vide office memorandum dated 10.7.2017

Annexure R1(a) - True copy of the proceedings of the interview board which met on 10.6.2007

Annexure R1(b) - True copy of the proceedings dated 21.7.2008 of the interview board.