

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No.180/00421/2020

Wednesday, this the 16th day of September 2020

C O R A M :

**HON'BLE Mr.P.MADHAVAN, JUDICIAL MEMBER
HON'BLE Mr.K.V.EAPEN, ADMINISTRATIVE MEMBER**

Sri.P.N.Jayanthan,
S/o.P.S.Narayanan, Aged 50 years,
(M) No.945716506, Senior Engine Driver,
Captain of Yard, Naval Ship Repair Yard,
Naval Base, Kochi – 682 004.
Residing at Aanjaneyam, House No.34/179H,
Kannankulangara, OEN Road, Thekkumbhagam,
Thripunithura, Ernakulam District, Kerala – 682 301. ...Applicant

(By Advocate Mr.P.K.Madhusoodhanan)

v e r s u s

1. The Government of India,
represented by its Secretary,
Ministry of Finance, Department of Expenditure,
North Block, New Delhi – 110 001.
2. Flag Officer Commanding-in-Chief,
Head Quarters, Southern Naval Command,
Kochi – 682 004.
3. The Admiral Superintendent,
Naval Ship Repair Yard, Naval Base,
Kochi – 682 004. ...Respondents

(By Advocate Mr.H.Rathish, ACGSC)

This application having been heard on 11th September 2020, the Tribunal on 16th September 2020 delivered the following :

O R D E R

Mr.K.V.EAPEN, ADMINISTRATIVE MEMBER

The applicant was promoted as a Senior Engine Driver (1st Class Engine Driver) in the Pay Band Rs.9300-34800/- + GP Rs.4200/- on 1.3.2016 in which post he is working at present. He claims that he is being

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assigned the duties of Motor Engineer, operating engines of major vessels of above 565 BHP plying in the port of Cochin for the past four and a half years and that he has the suitable qualifications and experience for plying engines of major vessels of any break horse power above 565 BHP propulsion power. He states that he is deployed as per the service requirement as the Civilian Engineer-in-Charge operating major vessels of above 565 BHP main propulsion power capacity with twin screw Engines. While he has been compelled and constrained to operate the above major vessels, he is not being paid any extra remuneration/allowances, or any higher pay. In effect, he contends that he is not getting any benefits for performing the higher duties and responsibilities of Civilian Engineer-in-Charge/Motor Engineer on the ground that the post of Engineer-in-Charge/Motor Engineer/Marine Engineer/Chief Engineer does not exist in NSRY, Kochi.

2. The applicant had submitted through proper channel an application dated 30.4.2019 (Annexure A-3) to 2nd respondent requesting him to take urgent necessary steps to create a post of Motor Engineer in NSRY, Kochi and to grant promotion to him. By letter dated 20.8.2019 at Annexure A-5, the 2nd respondent (Flag Officer Commanding-in-Chief, Southern Naval Command, Kochi) informed the 3rd respondent (the Admiral Superintendent, NSRY, Naval Base, Kochi) that the Ministry of Finance is the competent authority for creation of posts. Accordingly, the 2nd respondent requested the 3rd respondent that the case along with requisite documents prepared as per the guidelines promulgated vide Ministry of Finance, Office Memorandum No.7(1)/E.Coord-I/2017 dated 12.4.2017 be resubmitted for

processing further, if so considered by the Unit. Alternatively, the case can be taken up during the NSEC review of the Unit. The applicant then submitted a reminder to the 2nd respondent (which is at Annexure A-6) requesting for prompt action to redress his grievance at the earliest. The reliefs sought in the O.A are as follows :

- a. Issue necessary directions to the respondent to consider and pass orders on Annexure A-3, in the light of justification/recommendations and Annexure A-4 made thereunder pursuant to Annexure A-5, at the earliest, at any rate within a time limit to be fixed by this Hon'ble Tribunal.
- b. Declare that the applicant is eligible and entitled to be promoted to the post of Motor Engineer/Civilian Engineer Officer and grant the pay attached to the post on its creation by the first respondent and grant him all consequential monetary benefits arising therefrom in accordance with law.
- c. Issue necessary directions to the respondents to grant and disburse to the applicant officiating pay attached to the post of Motor Engineer/Civilian Engineer Officer on the principle of equal pay for equal work during the entire period of his service, as he has been deployed to perform the higher duties and responsibilities of operating major vessels above 565 BHP main propulsion power capacity for the 4 1/2 years and disburse to him all consequential monetary benefits arising therefrom at the earliest.
- d. Award costs of these proceedings.

And

- e. Grant such other and further reliefs as this Hon'ble Tribunal deems fit and proper.

3. From the documents produced in the O.A., it is not clear to us as to whether any action has been taken by the 2nd respondent or the 3rd respondent regarding the request of the applicant or whether a proposal for creation of a Motor Engineer post in NSRY, Kochi has been forwarded to the concerned and appropriate authorities for approval, if it is deemed necessary. In any case, the creation of posts and its incorporation within the

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Recruitment Rules etc. of any organisation is a matter of Government policy, which has to be decided by the Ministry or the Organization concerned. It appears that the applicant has jumped the gun by approaching this Tribunal before any decision in this regard has been taken by the appropriate authorities or any sufficient cause is established. We are of the opinion, therefore, that the O.A is premature at this stage.

4. Accordingly, we dismiss the O.A at the admission stage itself as filed premature. We, of course, grant liberty to the applicant to approach this Tribunal, if he so feels, by filing a fresh O.A, if he is aggrieved by any future decision taken in this regard. There shall be no order as to costs.

(Dated this the 16th day of September 2020)

K.V.EAPEN
ADMINISTRATIVE MEMBER

P.MADHAVAN
JUDICIAL MEMBER

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List of Annexures in O.A.No.180/00421/2020

1. **Annexure A-1** – A copy of the certificate of competency (COC) of 1st Class Engineer issued by Kerala Port Department under Kerala Inland Vessel Rules, 2010 dated 23.2.2017.
2. **Annexure A-2** – A copy of the certificate of “Engineer of Motor Vessel” having engines of any Brake Horse Power (BHP) plying in the port of Cochin under the provisions of Cochin Harbour Craft Rules, 1947, amended as Cochin Port Trust Harbour Craft Rules, 2015 issued from the Mercantile Marine Department (MMD), Kochi on 4.4.2019.
3. **Annexure A-3** – A copy of the representation dated 30.4.2019 submitted before the 2nd respondent.
4. **Annexure A-4** – A copy of the check list for creation of posts.
5. **Annexure A-5** – A copy of the Letter dated 20.8.2019 of the 2nd respondent to the 3rd respondent.
6. **Annexure A-6** – A copy of the reminder dated 5.2.2020 to the 2nd respondent.
