

CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH

Original Application No. 180/00117/2020

Tuesday, this the 2nd day of February, 2021

CORAM:

Hon'ble Mr. P. Madhavan, Judicial Member
Hon'ble Mr. K.V. Eapen, Administrative Member

M. Habibullah, aged 50 years, S/o. Late G.M. Magdoom,
Chief Instructor (Fishing Technology)/Deputy Director I/c,
Central Institute of Fisheries, Nautical and Engineering Training Unit,
59 S.N. Chetty Street, Royapuram, Chennai – 600 013,
Residing at No. 75/4, CPWD Quarters, Thirumangalam,
Chennai – 600 040, Ph. 7845697086. **Applicant**

(By Advocate : Mr. T.A. Rajan)

V e r s u s

1. Union of India, represented by Secretary to Government of India,
Ministry of Fisheries, Department of Fisheries, Animal Husbandry
and Dairying, Krishi Bhavan, New Delhi – 110 001.
2. Union of India, represented by Secretary to Government of India,
Ministry of Personnel, Personnel Graveness and Pensions,
Department of Personnel & Training, North Block,
New Delhi – 110 001.
3. Union of India, represented by Secretary to Government of India,
Union Public Service Commission, Dhoolpur House, Shahjahan Road,
New Delhi – 110 069.
4. The Director, Central Institute of Fisheries, Nautical and
Engineering Training, Foreshore Road, Ernakulam,
Cochin – 682 016. **Respondents**

**[By Advocates : Mr. K.S. Shaiju, ACGSC (R1, 2 & 4) and
Mr. Thomas Mathew Nellimootil R3)]**

This application having been heard on 25.01.2021 through video
conferencing, the Tribunal on 02.02.2021 delivered the following:

ORDER

Hon'ble Mr. P. Madhavan, Judicial Member –

The OA is filed seeking the following reliefs:

“I) Call for the records leading to the issuance of Annexure A3 A11 and A13 and quash the same.

II) Declare that Annexure A3 in so far as it enable filling of post of Deputy Director by considering the persons in the lower grade of Senior Instructor with 5 years experience is arbitrary, discriminatory, unreasonable and opposed to the equality clause enshrined in Articles 14 and 16 of the Constitution of India.

III) Declare that the respondents are bound to consider filling up the vacancy of Deputy Director by promotion from Chief Instructors/Mechanical Marine Engineer (by upgrading these posts as Joint Directors along with rising of Pay Scale from Pay Matrix level-11 to Level-12)

Or by transfer on seniority of Chief Instructors to Deputy Director Posts

Or by re-designating the post of Chief Instructors / Mechanical Marine Engineer as Deputy Director with their respective branch suffix (i.e. Marine Engineer / Fishing Technology / Seamanship & Navigation / Mechanical Marine Engineer) and declare the senior most among Deputy Directors as Head of Office and direct the respondents accordingly.

IV) Award costs of and incidental to this application.

V) Grant such other relief, which this Honourable Tribunal may deem fit and proper in the circumstances of the case.”

2. The applicant had sought for an interim relief of staying Annexure A11 notification provisionally subject to the outcome of the Original Application.

3. When the matter came up for consideration on 14.2.2020, this Tribunal had granted an order of status quo as on that date till the

respondents appears and files their reply statement. The respondents entered appearance and filed their reply statement.

4. The case of the applicant is that the applicant was appointed as a Senior Instructor in the respondent organization in the year 1998. In the year 2008 he was promoted as Chief Instructor with Grade Pay of Rs. 6,600/-. As per Annexure A2 Recruitment Rules, to the post of Director, the feeder category is Chief Instructor. The Senior Instructor is below Chief Instructor. There is a post of Deputy Director which is not coming in the hierarchy and he is the officer in control of the office. As per Annexure A3 Recruitment Rules dated 21.9.2020, the appointment to the post of Deputy Director is by way of deputation from persons holding analogous post on regular basis in the parent Department or with persons of 5 years service on regular basis in the Grade Pay of Rs. 5,400/-. According to the applicant this will create an anomalous situation where the Senior Instructor who is subordinate to the Chief Instructor will be appointed to the post of Deputy Director who is the controller of the Chief Instructor. So the applicant challenges Annexure A3 Recruitment Rules in this OA. According to him the respondents had issued Annexure A11 notification for the post of Deputy Director as per the prevailing Recruitment Rules and he is seeking a stay of Annexure A11 also.

5. The respondents appeared and filed objection disputing even the jurisdiction of this Tribunal. According to the counsel appearing for the respondents no direction can be issued by a Tribunal to amend the Rules as

sought by the applicant. The applicant in this case is working as Deputy Director-in-Charge and Chief Instructor of Central Institute of Fisheries, Nautical & Engineering Training Unit at Chennai and the present notification issued as Annexure A11 is for the post of selecting Deputy Director in the Central Institute of Fisheries, Nautical and Engineering Training Units at Chennai and Visakhapatnam. The said notification is issued by the Ministry of Fisheries, Animal Husbandry and Dairying, Krishi Bhavan, New Delhi. So according to the respondents this Tribunal has no jurisdiction to entertain the said OA as per Rule 6 of the Central Administrative Tribunal (Procedure) Rules, 1987. The OA ought to have been filed before the Chennai Bench of this Tribunal and not before this Bench. As per Rule 6 of CAT (Procedure) Rules, 1987 an application shall ordinarily be filed by applicant with the Registrar of the Bench i) within whose jurisdiction the applicant is posted for the time being or ii) cause of action wholly or in part has arisen. From this it can be seen that there is no jurisdiction for this Bench of the Tribunal to entertain this OA.

6. We have carefully gone through the pleadings of both sides and we find that there is no dispute to the fact that the applicant is working as Deputy Director-in-Charge at Chennai and as a Chief Instructor also. The notification Annexure A11 for which an interim relief is sought was issued from the Ministry of Fisheries, Government of India, New Delhi and the vacancies are arising at Chennai and Visakhapatnam. The only contention put forward by the applicant is that the Head Office of the Institute (R4) is

situated at Cochin and nothing more. On a perusal of the notification and other pleadings, we find that no cause of action or part of cause of action has arisen within the jurisdiction of Ernakulam Bench of this Tribunal in this case. The entire cause of action has arisen at Chennai or at New Delhi from where Annexure A11 notification was issued. Since the question of jurisdiction has been raised by the respondents, this Tribunal is duty bound to look into the question of jurisdiction at first. The applicant is working at Chennai and ordinarily place for filing OA as per Rule 6 of CAT (Procedure) Rules, 1987 is before the Bench where the applicant is working. No cause of action has arisen within the jurisdiction of Ernakulam Bench of this Tribunal. So we find merit in the contention put forward by the respondents in this case. **This Tribunal lacks jurisdiction to entertain this OA. Hence, the status quo ordered on 14.2.2020 has to be vacated. We order accordingly.**

7. The Registry will return the OA to the applicant in order to present the same before the appropriate forum. The Original Application is disposed of as above. No order as to costs.

(K.V. EAPEN)
ADMINISTRATIVE MEMBER

(P. MADHAVAN)
JUDICIAL MEMBER

“SA”

Original Application No. 180/00117/2020

APPLICANT'S ANNEXURES

- Annexure A1** – True copy of the organizational chart indicating the hierarchies in the CIFNET organization.
- Annexure A2** – True copy of the Recruit Rules of the post of Director published under GSR No. 847(E) dated 5.10.2010.
- Annexure A3** – True copy of the Recruitment rules of the post of Deputy Director published under GSR 174 dated 21.9.2010.
- Annexure A4** – True copy of the notification bearing No. 3/7/85 Fy (Admn) dated 30.4.1987.
- Annexure A5** – True copy of the recruitment rules dated 31.7.2006.
- Annexure A6** – True copy of the representation dated 13.5.2011 of the applicant.
- Annexure A7** – True copy of the notification bearing F. No. 3-17/2006(Fy Admn) published in Employment News 23rd and 29th April, 2011.
- Annexure A8** – True copy of the order hearing F. No. 3-17/2006-Fy(Admn) dated 15.2.2012.
- Annexure A9** – True copy of the order dated 23.3.2012 of this Hon'ble Court in OA No. 898 of 2011.
- Annexure A10** – True copy of the representation dated 3.12.2018 of the applicant.
- Annexure A11** – True copy of the notification bearing F. No. 3-33/2014-Admn.V dated 14.9.2019.

Annexure A12 – True copy of the representation dated 10.9.2019 of the applicant.

Annexure A13 – True copy of the order bearing F. No. 3-40/2019-Admn V dated 4.10.2019.

Annexure MR1 – True copy of the office orders No. 13-28/07Adm dated 18.9.2009.

Annexure MR2 – True copy of the F. No. 13-2/2010-Adm dated 8.7.2010.

Annexure MR3 – True copy of the F. No. 13-2/2010-Adm dated 23.7.2010.

Annexure MR4 – True copy of the page 17 of the Swamy's compilation on confidential reports of Central Government employees.

Annexure MR5 – True copy of the Recruitment Rule dated 14.4.1987 of Deputy Director.

Annexure MR6 – True copy of the order File No. 1/11/2019-SR dated 8.10.2020.

Annexure MR7 – True copy of the order dated 15.10.2009 in OA 271 of 2009.

Annexure MR8 – True copy of the order No. 1-1/2009-Adm dated 19.3.2012.

RESPONDENTS' ANNEXURES

Nil

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