

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No.180/00441/2016

Friday, this the 9th day of April 2021

C O R A M :

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

Jawahar I,
Aged 50 years,
S/o.I.S.Rao,
Manager I/Director,
Khadi & Village Industries Commission,
Khadi Gramodyog Bhavan,
Pallimukku, M.G.Road,
Kochi – 682 016.
Residing at 202, Santhi Apartments,
Luiz Lane, Kadavanthara, Ernakulam,
Kochi – 682 020.

...Applicant

(By Advocate Mr.T.C.Govindaswamy)

v e r s u s

1. Union of India,
represented by the Secretary to Government of India,
Ministry of Micro, Small & Medium Enterprises,
Udyog Bhavan, New Delhi – 110 011.
2. The Khadi & Village Industries Commission,
No.3, IRLA Road, Vile Parle,
Mumbai – 400 056.
3. The Chief Executive Officer,
The Khadi & Village Industries Commission,
No.3, IRLA Road, Vile Parle,
Mumbai – 400 056. ...Respondents

**(By Advocates Mr.Thomas Mathew Nellimootttil, Sr.PCGC [R1]
& Mr.T.Rajasekharan Nair [R2&3])**

This application having been heard on 31st March 2021, the Tribunal on 9th April 2021 delivered the following :

ORDER

Per : Mr.K.V.EAPEN, ADMINISTRATIVE MEMBER

The applicant was working as the State Director of Kerala/Manager-I of the Khadi& Village Industries Commission (KVIC) when this O.A was filed. He is aggrieved by the apparent inaction on the part of the respondents in considering him for promotion as Deputy Chief Executive Officer (DCEO) in the same organization. At the time of filing the application, the applicant was in PB3 with Grade Pay Rs.7600/- (Junior Administrative Grade). The scale of pay for DCEO, KVIC is in PB4 with Grade Pay Rs.8700/-.

2. It is submitted by the applicant that the KVIC was created under the Khadi & Village Industries Commission Act, 1956 and is under the control and supervision of the Ministry of Micro, Small & Medium Enterprises (MSME). Section 27 of the Act deals with the power of the Commission, with previous sanction of the Central Government, to make regulations, not inconsistent with the provisions of the Act or the rules made there under, for enabling it to discharge its functions under the Act. In terms of Section 27 (2) (a) of the Act, the terms and conditions of appointment and service and the scales of pay of officers and servants of the Commission, other than the Chief Executive Officer and the Financial Adviser to the Commission, including payment of traveling and daily allowances in respect of journeys undertaken by such officers and servants for the purpose of the Act, can be provided for under the Regulations. In the

light of this power vested under Section 27 of the Act, the Commission had framed the Khadi & Village Industries Commission Regulations, 1958 which later was replaced by the Khadi & Village Industries Commissions Regulations, 2007.

3. The applicant submits that he is a holder of a Post Graduate Degree (MBA) in Marketing and Personnel Management. He was initially appointed in the Commission on 04.01.1993, as Manager III/Assistant Director, a post in PB3 with Grade Pay Rs.5400/- . He was subsequently promoted as Manager II with effect from 27.03.1997, in the then Group A senior scale of PB3 plus Grade Pay Rs.6600/- . His initial appointment was in terms of the then existing regulations made under Section 27 of the Act. Later, he was promoted as Manager I in PB3 with Grade Pay of Rs.7600/-, with effect from 01.01.2004. The applicant submits that the service conditions, pay scales etc. in the Commission are fully as applicable to the Central Government Employees of the Government of India. It is submitted by him that the Commission has nevertheless made an artificial classification among the employees of the Commission resulting in some of them being treated as working in the “Regular Cadre” and others like him being treated as working in the “Trading Cadre”. The applicant submits that those working in the Trading Cadre are working in the field/trading outlets of the Commission while those in the Regular Cadre are working in the administrative offices. It is submitted that employees working in the Regular Cadre and in the Trading Cadre are treated at par

for all material purposes, including for the adoption of the Central Government scales of pay and other benefits like financial upgradation under the Assured Career Progression Scheme/Modified Assured Career Progression Scheme etc.

4. The applicant submits that those in the Trading Cadre are however not included in the pension scheme of the Commission. They also do not have a regular channel of promotion, leaving them no advancement in their career progression unlike in the case of those who are appointed in the regular cadre though they are working against posts carrying identical scales of pay/nature of duties. It is submitted by him that the posts of Manager I, II and III, are treated as if in the Trading Cadre, whereas the posts of Assistant Director/Deputy Director/Director carrying identical scales of pay and identical duties are treated to be in the Regular Cadre. Moreover, those appointed/promoted as Managers III, II and I are regularly being appointed and utilised as Assistant Directors/Deputy Directors/Directors by interchanging the posts as well as the incumbents. Inspite of this actual position, it is submitted that those who reach the position of Director in PB3 + GP Rs.7600/- are only being considered for further promotion as Deputy Chief Executive Officer, whereas no such avenues are provided to those who are working as Manager I/Director discharging the same duties as that of a Director in the Regular Cadre.

5. It is submitted that the applicant and others like him have long been requesting that there should be a regular channel of promotion into the Regular Cadre of the Commission provided to them. They had been promised that as and when the Recruitment Rules were framed/revised, a channel of promotion into the Regular Cadre would be provided, even by way of an appointment through transfer/deputation/absorption. The Commission has framed the Khadi & Village Industries Commission Group 'A', 'B' and 'C' posts Recruitment Rules, 2016 notified on 11.03.2016 (referred to as the Rules) and produced as the impugned document at Annexure A-1. These Rules have left those working in the Trading Cadres high and dry. Those belonging to the Trading Cadre do not have any status, though they too are regular employees of the Commission. Though the posts of Manager I and Director are interchanged with incumbents as a matter of course and in administrative interest, those like the applicant who are borne in the Trading Cadre of Manager I, are not considered eligible for further promotion as Deputy Chief Executive Officer in PB4 + Grade Pay Rs.8700/- unlike in the case of the Directors. In the applicant's case at the time of filing the O.A he was functioning as the State Director of the Khadi & Village Industries Commission, Kerala but was not eligible to be considered under the Rules for further promotion, whereas another official who was borne in the Regular Cadre of Director and working in Tamil Nadu/Karnataka etc. and discharging the same duty would be considered for promotion as Deputy Chief Executive Officer.

6. As these Rules were highly discriminatory and unjust, it is submitted that a representation dated 03.04.2016 was made to the 3rd respondent, highlighting the factual and legal scenario and requesting that the applicant should also be considered for regular induction into the cadre of Directors or considered for promotion to the post of the Deputy Chief Executive Officer. This representation (produced at Annexure A-2) has had no response as yet. The applicant submits that there are large number of vacancies in the Cadre of Deputy Chief Executive Officers and that he has same experience as Manager I/Director as any other Director of the Commission. Hence, the failure on the part of the respondents to consider him for promotion as Deputy Chief Executive Officer is discriminatory and unconstitutional.

7. The applicant's main ground is that all the employees of the KVIC, irrespective of the fact whether they are working in the trading establishment or in the regular establishment, constitute a homogenous class, since both the regular establishment and trading establishment are permanent wings of the same organization, one dealing with the administration and the other dealing with the trading activities. In all other issues the employees are being treated at par with the Central Government employees including in the matter of grant of scales of pay, financial upgradation under the ACP/MACP Scheme etc. The DoPT guidelines in the matter of seniority, DPC, framing of Recruitment Rules etc. have also been made applicable to the employees of the KVIC, irrespective of whether they

are working in the trading or regular establishment. Thus the exclusion of those working in the trading establishment in the appropriate Recruitment Rules and not providing them proper promotional opportunities is highly illegal, contrary to law and violative of the constitutional guarantees enshrined in Articles 14 and 16. It is further submitted that Directors and Managers discharge identical duties and responsibilities. The posts are equated for all material purposes, including in the matter of scales of pay. The posts and the incumbents are often interchanged. Hence the respondents should consider the grievance of the applicant and others like him and provide an opportunity of being promoted as the Deputy Chief Executive Officers, at par with those who are already working as Directors. The Managers and the Directors of the organization constitute a common class for all material purposes. The artificial classification in the matter of promotion to the post of DCEO has no nexus to the object sought to be achieved. The applicant submits that there are no promotional opportunities for him despite being in a Group 'A' post after joining as a direct recruit Manager. Every service should have enough promotional opportunities to avoid demoralization and discontentment. He submits that his representation should have been considered and he seeks the following reliefs :

1. *Call for the records leading to the issue of Annexure A-1 and quash the same to the extent it does not include the Manager I for promotion to the post of Deputy Chief Executive Officer under the respondents.*
2. *Direct the respondents to include the category of Manager I of promotion to the post of Deputy Chief Executive Officer under the respondents and direct further to consider and promote the applicant as Deputy Chief Executive Officer against one of the*

existing vacancies in preference to person with lesser service as Managers/Directors under the respondents and direct further to grant all the consequential benefits arising therefrom.

3. *Award costs of and incidental to this application and*

4. *Pass such other orders or directions as deemed just, fit and necessary in the facts and circumstances of the case.*

8. Per contra, the respondents have filed a reply statement submitting that the applicant is not entitled to the reliefs claimed in the petition as neither the old KVIC Group 'A' and 'B' posts Recruitment Rules, 1998 nor the present KVIC Group 'A', 'B' and 'C' posts Recruitment Rules, 2016 are applicable to him. The Commission had created a separate internal establishment called the trading establishment exclusively for the purpose of undertaking trading activities to provide marketing support and raw material supply to the implementing agencies of the Commission. The trading establishment was created on its own initiative by the Commission without the prior approval of the Government of India, with a clear understanding that the salaries and allowances of the employees of the establishment was to be met out of the trading margin earned by the trading units. The reason was that the Government of India would not provide any financial assistance for meeting non-plan expenditure (salaries and allowances of the employees) of the trading establishment, whereas, the entire establishment expenditure of the regular establishment of the KVIC was and continues to be met by the Government of India out of its budgetary resources. The Commission, however, had got the approval of the Government of India for the creation of two posts of Project Managers for

the Central Silver Plants of the Commission at Rae Bareilly and Trichur under Trading Cadre. Even there while according permission the Government of India had made it clear that the expenditure involved will be met from the margins earned in the trading activity. Further, the Government of India while introducing the pension scheme and notifying the KVIC Employees (Pension) Regulations in the year 1984 specifically exempted the employees of the Trading Establishment from the coverage of the pension scheme in the KVIC. This was challenged by the union representing employees under the Trading Establishment before the Hon'ble High Court of Delhi on the ground of discrimination. The Hon'ble High Court, after analysing the service conditions of the employees working in the regular and trading establishment of the Commission and also various provisions of the KVIC Act, especially Section 15, 17A and Section 18, came to a conclusion that the question whether the trading activity is integral part of the activity of the Commission or not does not have much relevance. It was noted that Section 15 of the Act provides that the functioning of the Commission is subject to the provisions of the Act. Further, such functions of the Commission would be subject to Section 17A and also Section 18 of the Act. Accordingly, the petition was dismissed on the ground that there was no merit in the contentions raised. A copy of the judgment in CWP 2151/1989 passed by the Hon'ble High Court of Delhi has been produced as Anexure R-2(b). It is submitted that while this judgment relates to the demand for pension by the employees of the trading establishment, certain observations made by the Hon'ble High Court are also relevant for this case.

9. The respondents further submit that by the present application the applicant has challenged the provisions of the KVIC Group 'A', 'B' and 'C' posts Recruitment Rules, 2016 which has been enacted in supersession of the Ministry of Industry, KVIC Group 'A' and 'B' posts Recruitment Rules, 1998. The applicant was in service of the KVIC since January 1993. However, he had never challenged the Recruitment Rules of 1998 which were also not applicable to him and other employees of the Trading Cadre. It is submitted that in a way the applicant is challenging the Recruitment Rules after a lapse of more than 23 years. It is submitted that he was very well aware that he was not entitled to the benefits as applicable to employees of the regular cadre and that he was not entitled to claim promotion to a post in the regular cadre. As such, he cannot now complain that there is discrimination between employees of the regular cadre and the trading cadre. From the very inception, the provisions of the KVIC Employees (Pension) Regulations and the KVIC Group 'A' and 'B' posts Recruitment Rules have been made not applicable to the employees of trading cadre. Further, the applicant had been holding the post of Manager I in the KVIC Trading Cadre and had been temporarily given the additional work of State Office, Kerala. The post of Manager I being under the Trading Cadre in KVIC, the applicant cannot claim a line of promotion to a post in the Regular Cadre. The service conditions of the trading cadre are different in many respects from that of the employees in the regular cadre, which has also been observed by the Hon'ble High Court in its judgment at Annexure R-2.

10. The basis of the argument of the respondents appears to be on the difference in the service conditions of the employees of the Trading Cadre from that of the employees of the Regular Establishment and, therefore, that the allowances and facilities applicable to one are not extended to the other. It is contended that the mere fact that the KVIC has extended the benefit of Pay Commissions, ACPS etc., to the employees of Trading Cadre at par with employees of Regular Cadre does not confer any other right for the applicant to claim that he should also be considered for promotion to posts reserved under the Regular Cadre. As per the impugned Recruitment Rules, 2016, Directors in PB3 (Rs.15600-39100) with Grade Pay of Rs.7600/- with five years regular service in the grade are only eligible for the promotion to the post of DCEO. As the applicant is working as Manager I under the Trading Cadre, he is not eligible for promotion to the post of DCEO. The mere fact that the scale of pay of the applicant is equivalent to that of the pay scale of Director in the Regular Cadre does not create any legal right in favour of the applicant to claim promotion along with the Directors in the Regular Cadre. It is submitted by the respondents that the employees of the Trading Establishment are only utilized temporarily for discharging the work under Regular Cadre. This is done for administrative convenience but does not mean that the officials appointed under the Regular Cadre and Trading Cadre are having no differences in any manner. It is submitted that such temporary utilization of services, without any additional benefit, will not give any legal right to the applicant to claim for promotion under the Regular Establishment. At present, trading activities, which at one time had

more than one thousand employees, are gradually being winded up by the Commission. The staff strength of the Trading Cadre is now less than 300, which also shows that Trading Cadre is not a permanent cadre unlike the Regular Cadre. Thus, the service conditions are not identical in all respects. The Commission has not violated any of the provisions of the Constitution as alleged by establishing two cadres.

11. The respondents further have brought to notice that this Tribunal had considered cases filed by some employees in O.A.No.448/2016, O.A.No.775/2016, T.A.No.3/2016 and T.A.No.5/2016 and in a common order delivered on 24.10.2017 had denied the relief sought in the O.As/T.As for the coverage of pensionary benefits under 1984 Pension Scheme of the KVIC to be extended to the employees of the Trading Establishment. While doing so, this Tribunal had relied on the aforesigned judgment of the Hon'ble High Court of Delhi in C.W.P.No.2151/1989 in ***Khadi Gram Bhawan Karamchari Sangh v. Union of India (supra)***. In that judgment, which was dealing with the issues relating to the extension of pension to the employees of the Trading Wing, the Hon'ble High Court of Delhi had made clear observations about the status of the two classes of employees. The Hon'ble High Court had noted that a similar petition was filed before the Bombay High Court in ***Yarramsetty Muralidhar v. Khadi and Village Industries Commission*** bearing Writ Petition No.2553/1987 which was disposed of on 20.11.1997. In the judgment of the Hon'ble High Court of Delhi a clear distinction between the regular and trading establishment was

pointed out on the basis of information provided by the Commission. The Tribunal, in its order of 24.10.2017 in the aforementioned O.As/T.As (supra) had expressed the view that from the aforequoted observations/findings of the Hon'ble High Court of Delhi, the controversy in the cases on hand has been squarely covered. It was mentioned, as follows, in the order of the Tribunal at Paras 26 and 27 :

“26. The High Court of Delhi referring to the judgments of the apex court in Krishan Kumar v. Union of India & Ors. - AIR 1990 SC 1782, Union of India & Ors. v. Tejram Parashramji Bombhate & Ors. - (1991) 3 SCC 11, State Fishery Officers' Association, W.B. & Anr. v. State of West Bengal & Anr. - (1997) 9 SCC 65, held that the Court should not pass order which may create additional financial burden on the Government finding that such matters are policy matters involving financial burden and that no court or Tribunal should compel the Government to change its policy involving expenditure.

27. We note that the Delhi High Court also has observed in that case that occasional transfer of employees from Trading Establishment to Regular Establishment has given rise to the demands from the employees of the Trading Establishment crying for equal treatment of both cadres. But the court ignored such occasional transfer and postings of the employees finding that the work of the regular employees and trading employees are totally different. The court has further observed that those who are members of the Contributory Provident Fund Scheme cannot claim legal right of the benefits of pension scheme.

12. One of the applicants in the cases heard by the Tribunal later challenged the order of the Tribunal by filing O.P.(CAT) No.212/2018. In a common judgment in O.P.(CAT) No.212/2018 and O.P.(CAT) No.94/2018, the Hon'ble High Court of Kerala upheld the findings of the Tribunal and dismissed the petitions by the parties. This has been produced by the

respondents at Annexure R-2(c). Again, though the issues raised and addressed in the judgment related to the extension of the pensionary benefits under the 1984 Pension Regulations to the trading employees, certain observations made therein are also relevant for this case. At para 9 of the judgment it has been indicated, inter-alia, as follows :

“9.In such circumstances, whatever be the nature of the duties being performed by personnel in the regular establishment and the personnel in the trading wing, the fact is that personnel in the trading wing are not being regarded as employees belonging to the regular establishment of KVIC. It is in that context that the earlier aspects which we have taken note assume relevance. We have taken note of the fact that while KVIC was created under the Act the trading wing is the creation of KVIC without the approval of the Central Government. That apart, admittedly, the financial expenditure of the regular establishment of KVIC is being met by the budgetary allocation of the Central Government and the financial expenditure like salaries and emoluments of personnel belonging to the trading wing of KVIC are being met from the trading margin earned by the trading units and no financial assistance is provided by the Central Government for the non-plan expenditure like salary and allowances of the employees in the trading establishment. As long as the said distinction is there merely because of the fact that personnel belonging to trading unit are used to be transferred to the regular establishment it could not be said that the classification is unreal and unreasonable.In other words, in the light of the aforesaid indisputable and undisputed fact we are of the view that the classification of employees of KVIC as employees of KVIC borne on the regular establishment and employees of the KVIC in the trading establishment cannot be said to be unreal and unreasonable. They actually belong to two classes.

13. In addition, in para 11 of the judgment, while dealing with the petitioner in O.P.(CAT) No.212/2018 it is mentioned that while it is an undisputed fact that the person concerned was sent to the regular establishment, it can only be taken as a working arrangement as it was not

followed by a permanent appointment or absorption in the regular establishment. It was held that the petitioner therein has got no such case and in such circumstances, no reason was found to uphold the contention of the petitioner or to deal with his case differently, from the case of other employees retiring from the trading wing of KVIC.

14. From the above, it is established (through the observations/directions by the Hon'ble Delhi High Court, which itself was based on earlier directions of the Hon'ble Bombay High Court as well as the aforementioned observations in O.P.(CAT) Nos.212/2008 and 94/2018 by the Hon'ble High Court of Kerala) that there is a clear distinction existing between the officials working in the trading establishment and those working in the regular establishment of the KVIC. The impugned Rules which have covered only the employees of the regular establishment cannot, therefore, be said to be discriminatory or arbitrary in respect of their application solely to the service conditions of the employees of the regular establishment.

15. Learned counsel for the applicant, Shri.T.C.Govindaswamy has, however, brought to our notice, by way of an M.A producing a letter at Annexure A-3 that the KVIC had as early as on 11.03.2015 been told by the Ministry of MSME to explore the possibility of identifying the employees who, if willing, can be brought in the regular establishment provided they have the educational qualification and other related experience. In this letter it was mentioned by the Ministry that only workable alternative left was to

find a way to adjust 450 persons of the trading establishment against the 2168 posts assessed by SIU for discharge of work under the regular establishment. However, since it was difficult to adjust all of them under the regular establishment, as it was not clear if all the trading cadre employees had the qualification and exposure to the work being undertaken by regular establishment employees, whose nature of work was quite different from those related to trading activities, it was thought to identify those employees who, if willing, could be brought into the regular establishment. Hence, this letter dated 11.03.2015 issued before the impugned Recruitment Rules at 2016, had recognized, to some extent, the need for adjusting some of the employees of the trading cadre in the regular cadre. The impugned Annexure A-1 Recruitment Rules in spelling out the method of recruitment of DCEO and Director also indicates that it could be by three methods (i) by promotion; failing which, (ii) by deputation including short-term contract; failing which, (iii) by direct recruitment. It has been noted in the Rules that vacancies caused by the incumbents being away on deputation or due to long illness or study leave or under other circumstances for a duration of one year or more may be filled on deputation basis from officers of the Central Government/State Government/Statutory Authorities/Autonomous Bodies. Further, the column for age limit for direct recruits indicates that it should be not exceeding fifty years, relaxable upto fifty five years for Government servants and with no age limit for employees of Khadi and Village Industries Commission for both the posts of DCEO and Director. While on the face of it under these provisions some employees belonging to

trading cadre of KVIC have the chance to get absorbed by direct recruitment at the level of Director and DCEO, it appears to have been not resorted to, perhaps as, sufficient internal candidates from the regular establishment were available for promotion. In any case, no further details were provided during the hearing of this matter.

16. The applicant had made another representation in June 2018 (produced at Annexure A-4) where he requested that a post of DCEO (Marketing/Trading) or General Manager be created in the KVIC by appropriating the same against vacant posts of Manager III in order to extend the promotional benefits to the Manager I (equivalent to Director) of the Trading Cadre. He brought to notice that he had, as of 20.06.2018, more than 25 years of service in the Commission and his service record would reveal that he had rendered more than 18 years of service in the capacities of Assistant Director, Deputy Director, Prinicpal, Director etc. in the Regular Establishment. It is to be noted that this puts to test the contention of the respondents that the deputation from the trading cadre to the regular cadre is only on a temporary basis. This information also reveals that the applicant had spent only seven out of twenty five years of service outside the Regular Establishment. The applicant also has held the charge of DCEO as evidenced by Annexure A-5 Circular dated 26.12.2018, all of which the respondents have not contested.

17. Learned counsel for the Respondent Nos.2 & 3, Shri.T.Rajasekharan Nair has relied in his arguments mainly on the aforementioned directions of the Hon'ble High Court of Kerala and the prior directions and observations of the Hon'ble Delhi High Court, which were basically in the context of the extension of the pensionary benefits to the trading cadre employees. He contends that the observations of the Hon'ble High Courts in these cases clearly establish that there are two separate establishments, namely, the regular establishment and the trading establishment in the KVIC. This has not been found to be illegal or discriminating or arbitrary by the Hon'ble High Courts. None of the rules/regulations relating to pension and other benefits have been struck down by the Hon'ble High Courts which makes it clear also that there is no case made for striking down the impugned 2016 rules on the ground of discrimination. He submits that the trading establishment in the KVIC mainly consist of the Central Sliver Plants and the Khadi Gramodyog Bhavans. It is only on administrative emergencies that services of the officials borne on Trading Establishments have been utilized on rare occasions for the work under Regular Establishment Offices, such as the Central Office, State Offices, Divisional Offices, Zonal Offices, Training Centres etc. Similarly, the services of officials of Regular Establishment Cadre are rarely utilized for the work of Trading Establishment Units such as the Central Sliver Plants, Khadi Gramodyog Bhavans etc. During such arrangements, ie. if an official belonging to Trading Cadre is hired for the work of Regular Establishment Office or vice versa, the salary is debited in respective heads.

18. Learned counsel submits that the historical background is that this cadre was established within the KVIC and did not have any approval from the Government of India as the establishment costs was being met solely from the Trade Margin of respective units. It is stated that, originally, direct trading activities had not been envisaged as a function of KVIC and it was only started in certain areas on a selective basis where local institutions had not come forward to undertake such activities. However, as and when they come forward these activities are transferred to local institutions, as has been done for the departmentally run Bhavans at Bangalore and Madras. Thus the trading staff are recruited for the specific purpose of carrying on the activities of Bhavans and other connected trading activities like godowns etc. and they constitute a cadre by themselves. Their cadre is clearly separate from the cadre of employees of Regular Establishment. Their pay scales being identical does not mean much, as their retention or retrenchment is governed by the volume of trading activities of the particular Bhavan/Centre to which they are attached. They are covered under the Employment Provident Fund Act unlike the staff under the Regular Establishment. As already mentioned they do not come under the Pension Scheme for the regular employees, and this matter has been upheld by the various High Courts. The employees under Trading Cadre are benefited by Pension under EPF Pension Scheme, Gratuity as per Payment of Gratuity Act etc. But they are not covered under the KVIC Employees Pension Regulations 1984. Thus, it is contended that it clearly establishes

that the applicant has no case for his service to be covered under the said impugned Recruitment Rules or that the said Rules are discriminatory to him or people like him.

19. After hearing arguments of counsel and after perusing the rules and the records as well as the judgments cited supra, we hold that there is no case made for any discrimination or arbitrariness on the part of the KVIC in formulating the impugned Rules at Annexure A-1, mainly for the benefit of the regular employees vis-a-vis the class of employees who are part of the trading establishment of the Commission. Overall there is, as has been observed by the Hon'ble High Courts, a clear separation between these classes of employees. Even if there has been an element of long service, as in the case of the applicant on the regular establishment side, it does not give any vested right for him to be considered under the aforesaid Recruitment Rules which are relating only to regular employees. Nor is it established that there is absolutely no distinction between these two classes of employees as their condition of service, roles in the organization are quite different. Hence, we feel that no case is made as prayed for in the O.A for grant of the reliefs in relation to quashing of the Rules and inclusion of Manager I in the promotional hierarchy.

20. At the same time, we note that the applicant has brought out many reasons for the KVIC to consider people like him who are ostensibly working in the Trading Cadre but actually have spent most of their career

working in the Regular Cadre to be given some sort of promotional incentives. However, we hasten to add that this is only an opinion expressed by us and should not be construed in any form as a direction to the respondents. The Commission may examine the suggestions untrammelled by our opinion.

21. The O.A is dismissed. There shall be no order as to costs.

(Dated this the 9th day of April 2021)

K.V.EAPEN
ADMINISTRATIVE MEMBER

P.MADHAVAN
JUDICIAL MEMBER

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List of Annexures in O.A.No.180/00441/2016

1. **Annexure A-1** – A copy of the relevant pages of the Khadi & Village Industries Commission Group 'A', 'B' and 'C' posts Recruitment Rules, 2016.
2. **Annexure A-2** – A copy of the representation dated 03.04.2016 submitted by the applicant addressed to the 3rd respondent.
3. **Annexure A-3** – A copy of the letter bearing F.No.A-11011/1/2010-KVI-II dated 11.03.2015 addressed to the Commissioner and the Chief Executive Officer of KVIC.
4. **Annexure A-4** – A copy of the applicant's representation dated 20.06.2018 addressed to the 3rd respondent.
5. **Annexure A-5** – A copy of the Circular bearing No.KVIC/MKT/DIR/EST/GEN/2018-19 dated 26.12.2018 issued by the 3rd respondent.
6. **Annexure R-2(a)** – A copy of the said KVIC Employees (Pension) Regulations.
7. **Annexure R-2(b)** – A copy of the judgment in CWP No.2151/89 passed by the Hon'ble High Court of Delhi.
8. **Annexure R-2(c)** – A copy of the judgment dated 27.02.2019 passed in O.P.(CAT) No.212/2018 by the High Court of Kerala.
