

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

OA No. 418 of 2004

Wednesday, this the 9th day of June, 2004

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**HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. H.P. DAS, ADMINISTRATIVE MEMBER**

1. The All India Light House Employees Association, Department of Light Houses & Light Ships, Kochi, through its President P.A. Karappan, S/o Ayyappan, Azhikkode Light House, Azhikkode PO, Trichur Dt. Residing at: Light House Quarters, Azhikkode, Trichur District.
2. K.P. Sushil Raj,
S/o K.P. Narayana Pillai,
Assistant Light Keeper (Sr. scale),
Beypore Light House, Chaliyam, Calicut,
Residing at: No. 38/2473-A, Raj Bhawan,
East Hill, Calicut-8
3. Prasanthan Karayi,
S/o late P.P. Nanu,
Assistant Light Keeper (Senior Scale),
Kasargode Light House,
Residing at: Light House Quarters,
Kasargode.Applicants

[By Advocate Mr. T.C. Govindaswamy]

Versus

1. Union of India, represented by the Secretary to the Govt. of India, Ministry of Shipping, New Delhi.
2. The Director General,
Department of Light Houses and Light Ships,
Deep Bhavan, Noida, U.P.
3. The Regional Director,
Department of Light Houses and Light Ships,
Deep Bhavan, Kadavanthara Post,
Gandhinagar, Kochi-20
4. The Secretary, Govt. of India,
Ministry of Finance, New Delhi.Respondents

[By Advocate Mr. George Joseph, ACGSC]

The application having been heard on 9-6-2004, the Tribunal on the same day delivered the following:

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O R D E RHON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

The 1st applicant is the All India Light House Employees Association, Department of Light Houses & Light Ships, Kochi through its President and the 2nd and 3rd applicants are members of the Association and persons working as Assistant Light Keeper (Senior Scale) [ALK(SS) for short]. Their grievance is that their representation claiming redesignation of the post of ALK(SS) as Junior Engineer and grant of the scale of pay of Rs.5000-8000 with effect from 1-1-1996 has been turned down by the respondents by Annexure A7 order dated 12-5-2004 and therefore, they have filed this application for a declaration that the refusal on the part of the respondents to redesignate the post of ALK(SS) as Junior Engineer and to grant them the scale of pay of Rs.5000-8000 with effect from 1-1-1996 on par with the Diploma holder Engineers of all other Ministries/Departments, is arbitrary, discriminatory and unconstitutional and that the applicants are liable to be designated as Junior Engineers and granted the said pay scale and for a direction to the respondents to grant the said pay scale to the applicants with consequential benefits.

2. It is alleged in the application that according to the Recruitment Rules the post of ALK(SS) is to be filled 50% by direct recruitment and 50% by promotion, that for direct recruitment the Diploma in Engineering is one of the essential qualifications, that the Vth Central Pay Commission observed that there should be higher pay scale for the Diploma holder Engineers in all the Departments and recommended the scale of pay of Rs.5000-8000, that this scale of pay has been adopted in various Ministries/Departments in the case of Diploma holder

Engineers and that there is absolutely no justification for denying the benefits to the applicants alone although the direct recruitment qualification for the post of ALK(SS) is Diploma in Engineering and the nature of job is akin to that of Engineers.

3. We have perused the application and the materials appended thereto and have heard at length the arguments of Shri T.C.Govindaswamy, learned counsel of the applicants as also of Shri George Joseph, ACGSC who took notice on behalf of the respondents. Shri George Joseph, learned ACGSC opposed the admission of this application.

4. A scrutiny of the materials on record and on hearing the learned counsel, we do not find any legitimate grievance of the applicants which calls for admission of this application for further deliberations. The Vth Central Pay Commission did not make any specific recommendation in the case of ALK(SS) either for designating them as Junior Engineers or to extend to them any particular pay scale. It is seen that the Vth Central Pay Commission had recommended that in the case of Diploma Engineers in all departments there should be a higher pay scale as has been mentioned in page 5 of the OA. This recommendation was intended to improve the initial recruitment pay scale of Diploma Engineers in the Ministries/Departments. The recommendation was specifically in the case of engineering subordinate cadres. The members of the 1st applicant Association are not Diploma Engineers in the engineering subordinate cadre. Even though Diploma in Engineering is one of the prescribed qualifications for direct recruitment as ALK(SS), a matriculate with experience is also eligible for direct recruitment. For promotion Diploma in Engineering is not a qualification prescribed. Hence, there is no

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recommendation by the Vth Central Pay Commission to grant the higher pay scale in the case of the applicants. Further, the designation of posts, prescription of qualifications, laying down service conditions and prescribing pay scales to posts come within the domain of the competent authority in the department assisted by expert bodies like Pay Commission. Judicial intervention in such matters are not warranted or justified unless the exercise of the function by the executive is per se arbitrary or vitiated for any other reason. From the materials made available as also from the averments made in the application, we do not find anything to show that the action in this case is either arbitrary or vitiated. We, therefore, do not find any scope for exercise of jurisdiction in this case.

5. In the light of what is stated above, the Original Application is rejected under Section 19(3) of the Administrative Tribunals Act, 1985. No costs.

Wednesday, this the 9th day of June, 2004


H.P. DAS
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

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