

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 426/03

Dated Tuesday this the 12th day of August, 2003.

C O R A M

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR.T.N.T.NAYAR, ADMINISTRATIVE MEMBER

Ramachandran P.G.
S/o Gopalakrishnan
Workshop Engineer
Vocational Rehabilitation Centre for Handicapped
Nalanchira, Trivandrum - 695 015.
Residing at " Chandrasudha"
36, CGS Nagar, Pappanamcode
Trivandrum.

Applicant.

(By advocate Mr.R.S.Kalkura)

Versus

1. The Union of India rep. by by
Secretary, Ministry of Labour
Shram Shakti Bhavan
Rafi Marg, New Delhi.
2. Director General (E&T)/Joint Secretary
Shram Shakti Bhavan, Rafi Marg
New Delhi.
3. Director (Admn.)
DG, E&T, Shram Shakti Bhavan
Rafi Marg, New Delhi.
4. Deputy Director General (Employment)
D.G., E&T, Shram Shakti Bhavan
Rafi Marg, New Delhi.
5. P.Chandrika Rani
Psychologist
Vocational Rehabilitation Centre for Handicapped
Nalanchira, Trivandrum.
6. Senior Superintendent
Vocational Rehabilitation Cente for Handicapped
Nalanchira, Trivnadrum.
7. R.Lakshmana Swamy
Rehabilitation Officer
Vocational Rehabilitation Centre for Handicapped
Vidya Nagar
Hyderabad.
8. Senior Superintendent
Vocational Rehabilitation Centre for Handicapped
Vidya nagar
Hyderabad.

Respondents

(By advocate Mr.George Joseph, ACGSC)

The application having been heard on 12th August, 2003, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN

The applicant who is working as Workshop Engineer in the Vocational Rehabilitation Centre for Handicapped, Nalanchira, Trivandrum, has filed this application challenging the order dated 5.5.03 by which respondents 5 & 7 have been promoted as Superintendents, to the extent his name has not been considered for such promotion and has prayed for the following reliefs:

- (i) Direct the respondents 1 to 4 to consider the post of Workshop Engineer in the Vocational Rehabilitation Centre as a feeder category to the further promotional post of Superintendent along with Rehabilitation Officer and Psychologist.
- (ii) Issue a direction to the respondents 1 to 4 to revise/amend the recruitment rules to the post of Superintendent by including the workshop Engineer having required qualification to the post of Superintendent to be considered along with the post of Psychologist and the Rehabilitation Officers for the next promotional post of Superintendent.
- (iii) Direct the respondents 1 to 4 to declare the post of Workshop Engineer as also a gazetted post equivalent to that of Rehabilitation Officer/Psychologist.
- (iv) To quash Annexure A9 in so far as it relates to promotion to the post of Superintendent as grossly illegal and discriminatory.

2. It is alleged in the application that on implementation of the 5th Central Pay Commission's Report, the scale of pay of the post of Workshop Engineer which the applicant has been holding was brought on par with the scale of the post of Rehabilitation Officer and Psychologist, which are the feeder grade for promotion to the post of Superintendent/Assistant Director and that the inaction on the part of the respondents in amending the recruitment rules taking into account the pay scale and other criteria recommended by the 5th Central Commission is in gross discrimination and violation of the applicant's fundamental

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rights. As the post of Workshop Engineer is identical with the post of Rehabilitation Officer and Psychologist, the applicant is also entitled to be considered for promotion to the post of Superintendent, submits the applicant. It is further alleged by the applicant that in terms of the Government of India's decisions contained in A-7 & A-8, the recruitment rules for promotion to the post of Superintendent is required to be similarly amended.

3. The respondents in their reply statement contend that the post of Workshop Engineer is a promotional post for the Workshop Foreman. The basic qualification of the Workshop Engineer is SSLC with NCVT certificate while the minimum qualifications for the post of Rehabilitation Officer and Psychologist are Post graduation in Social Work/Sociology/Psychology. The post of Workshop Engineer cannot be treated as a feeder grade to the post of superintendent and the applicant has no right to consider himself equal to Rehabilitation Officer or Psychologist as the present recruitment rules do not include the post of Workshop Engineer along Rehabilitation Officer or Psychologist in the feeder grade for the post of Superintendent and since pay scale of a post is not the criteria for promotion, but the qualification and experience etc. are more relevant criteria for appointment to higher posts in different stream. As the post of Superintendent is not in stream of promotion for Workshop Engineer, the applicant has no legitimate grievance, contend the respondents.

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4. The applicant has filed a rejoinder in which it has been stated that the respondents are bound to amend the recruitment rules in accordance with the recommendations of the 5th Central Pay Commission, especially when there is parity in the pay scales of Workshop Engineer and Rehabilitation Officer/Psychologist.

5. We have gone through the pleadings and the material placed on record and have also heard the learned counsel appearing for the applicant and the respondents. The learned counsel of the applicant Sh.R.S.Kalkura, with considerable vehemence, argued that as the pay scale of Workshop Engineer is on par with that of Rehabilitation Officer and Psychologist, there is no justification for not including the post in the feeder grade for promotion to the post of Superintendent and non-consideration of the applicant for such a promotion is illegal. Shri George Joseph, the learned counsel for the respondents, on the other dhand, argued that parity in pay alone is not the criteria for bringing the post into the feeder grade. It is the stream of hierarchy stipulated in the Recruitment Rules that governs the rules for promotion. Regarding the requirement for amending the recruitment rules as per the recommendations of the 5th Central Pay Commission, the learned counsel argued that although the post of Workshop Engineer carries the same pay scale as that of the Rehabilitation Officer, the qualifications prescribed for these posts are still different and, therefore, there is no requirement of amending the recruitment rules. The competent authority, if necessary, would amend the recruitment rules, taking into consideration the educational qualifications required for the post as also other relevant factors. Since the promotions in the case of respondents 5 & 7 are in accordance with the recruitment

rules and the applicant being not eligible for promotion to the post of Superintendent, this application does not, *prima facie*, disclose any legitimate grievance requiring admission, argued Sri George Joseph.

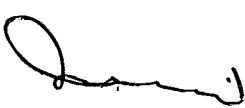
6. Having given our anxious consideration to the facts and the question of law involved in this case and also to the arguments made by the learned counsel on either side, we are of the considered view that the applicant has not been able to make out a case either for amendment of the recruitment rules or for consideration for promotion as Superintendent, *even prima facie*. The promotion of respondents 5 & 7 having been made in accordance with the relevant recruitment rules, the applicant has no right to challenge the same, because as per the statutory recruitment rules, the applicant's category does not come within the feeder grade. Just because the applicant's pay scale happens to be the pay scale of Rehabilitation Officer or Psychologist, the qualification for recruitment to the post of Workshop Engineer being only SSLC with NCVT, we do not find any requirement now to amend the recruitment rules including the post of Workshop Engineer in the feeder grade for promotion as Superintendent which requires higher qualifications. Further, amendment of the recruitment rules is the prerogative of the Government, after taking into account the relevant factors.

7. We are of the considered view that the application does not deserve admission and further deliberation.

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8. In the light of what is stated above, we reject this application under section 19 (3) of the Administrative Act, 1985.

Dated 12th August, 2003.



T.N.T. NAYAR
ADMINISTRATIVE MEMBER

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A.V. HARIDASAN
VICE CHAIRMAN