

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO. 426 OF 2009

Thursday, this the 1st day of April, 2010

CORAM:

**HON'BLE Mr.JUSTICE K.THANKAPPAN, JUDICIAL MEMBER
HON'BLE Ms.K.NOORJEHAN, ADMINISTRATIVE MEMBER**

Joe Abraham
Residing at Ambooken House
Perumpadanna Junction
North Parur

... **Applicant**

(By Advocate Mr.T.A.Rajan)

versus

1. **Union of India represented by Secretary
Government of India
Ministry of Defence
New Delhi**

2. **The Flag Officer Commanding-in-Chief
Headquarters, Southern Naval Command
Naval Base, Kochi – 4**

3. **The Chief Staff Officer (P&A)
Headquarters, Southern Naval Command
Naval Base, Kochi – 4**

4. **C.Krishnan
Semi Skilled Worker
Naval Armament Depot
Aluva** ... **Respondents**

(By Advocate Mr.Sunil Jacob Jose, SCGSC (R1-3))

The application having been heard on 01.04.2010, the Tribunal
on the same day delivered the following:

ORDER

HON'BLE Mr.JUSTICE K.THANKAPPAN, JUDICIAL MEMBER

The applicant is an Ex Naval Apprentice. As per Annexure A-3
Recruitment Rules, to the post of Tradesman Skilled shall be filled by
absorption on the proportion of 60:40. It means that 60% shall be from

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Ex-Naval Apprentices and 40% by promotion from Semi Skilled workers with 4 years of regular service in the grade and in the respective trade. The case of the applicant is that he is the senior most candidate in the list kept for Naval Apprentice and eligible to be appointed in the Pipe Fitter Trade. The further case of the applicant is that without considering the ratio contemplated under the Recruitment Rules, the respondents have promoted more candidates from Semi Skilled side so that Apprentices could not be appointed in the post. The applicant has got a further case that there is one vacancy in the Department due to the retirement of one Shri Somanathan on 01.07.2009. There are three other vacancies, due to retirement of one Shri Raghava Rao, promotion of one Shri Jayan and retirement of Antony from Highly Skilled post. Hence the applicant has filed this OA seeking the following reliefs:-

i. Declare that the applicant is eligible and entitled to be considered for appointment to the post of Pipe Fitter / Plumber that arise on 01.07.2009 in preference to any other person including 4th respondent.

ii. Declare that the 4th respondent is not eligible and entitled to be promoted in the vacancy of Pipe Fitter / Plumber that arise on 01.07.2009 due to the excess of promotees in the said post.

iii. Direct the official respondents to fill up the post of Pipe Fitter / Plumber in accordance with the quota prescribed in Annexure A-3.

iv. Direct the official respondents to absorb the applicant in the vacancy of Pipe Fitter / Plumber that arise on 01.07.2009 with all consequential benefits.

2. The OA has been admitted by this Tribunal and notice issued to the respondents. Respondents resisted the OA by filing a reply statement. The stand taken in the reply statement is to the effect that due to

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rationalization of industrial trades, number of trades were reduced from 66 to 36 by merging identical trades. After merging various trades together, some of which had only promoted personnel in Skilled level, it was not practical to maintain the ratio 60:40 with Ex-Apprentice and promotees respectively. It is further stated in the reply that the trade of Plumber, Pipe Fitter and Coppersmith were merged and re designated as Pipe Fitter. The trade of Coppersmith was a non designated trade and vacancy of Coppersmith (Skilled) were filled by promotion from the semi skilled trade as no apprenticeship training in non designated trades was imparting. Respondents further submitted that after merger, there were five personnel who have been promoted in the trade of Coppersmith (Skilled) and they have to be protected in the merged trade. Thereafter, the vacancies in the Trade Pipe Fitter (SK) are being filled by promotion strictly as per revised reservation roster in the percentage of 60:40. In Para 4 of the reply it is stated as follows:-

" 4. With regard to Para 4 (4) & (5), It is humbly submitted that as per Annexure A3 Recruitment Rules, 60% of the designated trades is to be filled by absorption of ex-Naval Apprentices and 40% by promotion, failing which by direct recruitment. According to the rationalization of industrial Trade structure w.e.f. 04 August 2006, vide Ministry of Defence (Navy) letter FM/1228 dated 04th August 2006, the posts of Plumber, Pipe Fitter and Coppersmith were merged and re-designated as Pipe Fitter. True Copy of Ministry of Defence (Navy) letter FM/1228 dated 04th August 2006 is produced herewith and amrked as Annexure R-1. The position of sanction prior to rationalization /merger and after rationalization is as given below:-

<i>sanction prior to merger</i>	<i>After Merger</i>
Plumber/ HS - 08	Plumber MCM - 02
Pipe Fitter SK - 04	Pipe Fitter HS - 06
Coppersmith HS - 05	SK - 05(*)
SK - 06	Coppersmith MCM - 02
	HS - 04
	SK - 05

() Including one post sanctioned for INS Zamorin*

Prior to merger, vacancies in the individual trades were being filled as per 60:40 ratio for absorption and promotion respectively. Since no apprentices were trained and appointed in Coppersmith trade, the sanctioned posts of Coppersmith (SK) had been filled by promotion from the feeder category. As 05 tradesmen, who were promoted to Coppersmith (SK), were available at the time of merger, the respondents were not in a position to keep 6 posts i.e. 60 % of the total number of the posts (Skilled level) in the merged trades with ex-apprentices. Consequent to the rationalization of Industrial trade structure and subsequent merger of identical trades, the reservation roster for appointment of ex-apprentices has also been revised. The vacancies arose since August 2006 are being filled by ex-apprentices and by promotion strictly with the revised reservation roster in the percentage of 60:40. Extract of the revised reservation roster in respect of the trade of Pipe Fitter (SK) is produced herewith and marked as as Annexure R-2. With regard to vacancy arose due to superannuation of Shri CK Somanathan, it is submitted that as per Annexure A2 reservations Roster, the next vacancy is to be filled by promotion and therefore the respondent is not in a position to consider the applicant for the said vacancy and he will be considered for appointment when his turn comes."

3. In the above circumstances, the stand taken in the reply statement is that it is not possible to maintain the ratio as such. However, the reply statement does not deny that there are vacancies exist, as contended by the counsel for applicant. The applicant has filed a rejoinder pointing out that the vacancies still exist in the trade and he being the senior most, is entitled for appointment to the next existing vacancy.

4. We have heard Mr.T.A. Rajan, learned counsel for applicant and Mr.Sunil Jacob Jose, learned Counsel for respondents. We have also perused the documents filed alongwith the OA as well the reply statement. The question to be decided is whether the applicant is entitled for the

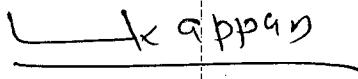


prayer in the OA and whether the respondents are bound to follow the ratio in the Recruitment Rules. It is admitted by the respondents that as per Annexure A-3, Recruitment Rules, the ratio has to be maintained and they are also admitting the fact that two personnel were excessively promoted and they have to be protected. This itself would show that the respondents are not following the ratio prescribed in the Recruitment Rules. Then the question is that whether such procedure shall be allowed or not ? We find that the applicant should be appointed or absorbed in the existing vacancy. There is no denial on the part of the respondents regarding the existence of the vacancy. The stand taken in the reply is not enough to reject the case of the applicant for the quota prescribed for Ex Naval Apprentices. Hence, we are of the view that that this is a fit case to direct the respondents to consider the case of the applicant and absorb him to the next existing vacancy in the quota prescribed as per Recruitment Rules. This shall be done within a reasonable time, at any rate within 45 days from the date of receipt of a copy of this order.

5. OA is allowed to the above extent. No order as to costs.

Dated, the 1st April, 2010.


K.NOORJEHAN
ADMINISTRATIVE MEMBER


JUSTICE K.THANKAPPAN
JUDICIAL MEMBER