

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. No. 443 of 1996

Tuesday, this the 16th day of April, 1996

CORAM

HON'BLE MR JUSTICE CHETTUR SANKARAN NAIR, VICE CHAIRMAN
HON'BLE MR P V VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

G. Ibrahim Manikfan, S/o Late Shri O. Moosa,
Health Inspector Grade I,
Union Territory of Lakshadweep.

... Applicant

By Advocate Mr M R Rajendran Nair.

Vs

1. Union of India represented by Secretary,
Ministry of Home Affairs, New Delhi.
2. The Administrator,
Union Territory of Lakshadweep,
Kavaratti.
3. The Director, Medical & Health Services,
Union Territory of Lakshadweep,
Kavaratti.

... Respondents

The application having been heard on 16th April 1996,
the Tribunal on the same day delivered the following:

O R D E R

CHETTUR SANKARAN NAIR (J), VICE CHAIRMAN

Applicant challenges A-4 order, by which respondent Administrator rejected his claim for promotion in preference to S/Shri O. Govindan, Antony D' Silva and M. Janardhanan. According to applicant A-4 takes away the benefits of the declaration made in O.A. 757/92. The claim was rejected on the ground that applicant had not put in 14 years of service as a Health Inspector, which was a condition of eligibility while Govindan, Antony D' Silva and Janardhanan had put in 14 years service when they were promoted.

... 2/-

2 The case of applicant is seemingly attractive, but not really. He was the seniormost when Govindan, D' Silva and Janardhanan were promoted. But he did not complain of supersession then. Juniors of applicant challenged the seniority enjoyed by him by O.P.3879/78. Thereafter the question of seniority came to be considered in T.A.K. 89/87 (originally O.P. 7109/81), O.A. 901/90 and O.A. 757/92. At the end of this chain of litigation, seniority of applicant over the others was restored. Hence, applicant would say that earlier promotion granted to others is bad.

3 Even before all these happened, applicant was shown as number -1 in the Seniority List in A-1 order dated 7.3.72. Govindan -2, Antony D' Silva -3, Mohammed -4 and Janardhanan -5 were ranked junior to him. When applicant ranked number -1, he could certainly have challenged promotions granted to the juniors. Apparently, he has not done this. Nothing has been brought to our notice to show that Govindan, Antony D' Silva and Janardhanan were promoted after the seniority in A-1 was varied. If that were so, on the basis of our declaration in O.A. 757/92 and consequent restoration of seniority, applicant may have had a case. But as far as we know from the pleadings, Govindan, Antony D' Silva and Janardhanan were promoted with effect from 1.8.76 when applicant was senior to them. If he did not choose to challenge his supersession at the appropriate time, whatever happened in litigations consequent on variation of seniority, will not enure to his benefit. From the pleadings it would appear that seniority of applicant was challenged for the first time only by O.P. 3879/78. Therefore, applicant cannot agitate the supersession in 1976.

4 If there are any new facts which have not been brought before us and which exist, applicant may bring them to the notice of either the Administrator or the Union of India and seek redress.

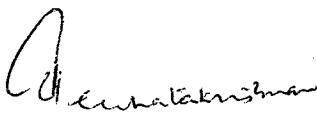
5 Applicant has another grievance relating to Health Education Officer's post. As far as this is concerned A-4 shows that:

" The name of G. Ibrahim Manikfan (applicant) was included in the proposals sent to the D.P.C. ... The D.P.C. in its proceedings has stated that Shri P.V. Mohammed Ismail is the only eligible candidate ..."

If applicant has a case that the full facts were not before the Departmental Promotion Committee, he may make suitable representations before the competent authority.

6 Original application is dismissed. No costs.

Dated the 16th April, 1996.


P V VENKATAKRISHNAN
ADMINISTRATIVE MEMBER


CHETTUR SANKARAN NAIR (J)
VICE CHAIRMAN