

**CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH,**

O.A. No. 460 of 2009

This the 14th day of June, 2010

CORAM

HON'BLE Mrs. K. NOORJEHAN, ADMINISTRATIVE MEMBER

K. Moosa, S/o Late Mohammed B.K,
Casual Labourer (Temporary Status),
Fibre Factory, UT of Lakshadweep Administration,
Kadamath Island
residing at Parathupara House,
Kadamath.

..... Applicant

By Advocate Shri. N. Unnikrishnan

Vs

- 1 Union of India, represented by the
Secretary to the Government,
Ministry of Home Affairs,
Department of Personnel &
Administrative Reforms, New Delhi.
2. The Administrator,
Union Territory of Lakshadweep, Kavaratti.
3. The Director of Industries,
U.T. Of Lakshadweep Administration, Kavaratti.
4. The Secretary (Industries),
U.T. Of Lakshadweep Directorate of Industries,
Kavaratti.
5. The Supervisor,
Fibre Factory, Union Territory of Lakshadweep ,
Kavaratti.

6. The Departmental Promotion Committee,
U.T. Of Lakshadweep Administration Kavaratti, rep. by
Collector cum Development Commissioner, Chairman
 7. Shri. P.K. Attakoya, Helper, Fibre Factory,
U.T. Of Lakshadweep Administration, Amini Island.
 8. Shri. N. Cheriyakoya, Helper, Fibre Factory,
U.T. Of Lakshadweep Administration, Amini Island.
 9. Shri. P. P. Fathalluah, Helper, Fibre Factory,
U.T. Of Lakshadweep Administration, Amini Island.
 10. Shri. T. Hamzath, Helper, Fibre Factory,
U.T. Of Lakshadweep Administration, Amini Island.
 11. Shri. V.I. Ashraf, Helper, Fibre Factory,
U.T. Of Lakshadweep Administration, Amini Island.
 12. Shri. K. Kasimkoya, Helper, Fibre Factory,
U.T. Of Lakshadweep Administration, Amini Island.
 13. Shri. P.V. P.K. Nallakoya, Helper, Fibre Factory,
U.T. Of Lakshadweep Administration, Agatti.
 14. Shri. Koya Kunashada, Helper, Fibre Factory,
U.T. Of Lakshadweep Administration, Agatti.
 15. Shri. P.P.P Kassim, Helper, Fibre Factory,
U.T. Of Lakshadweep Administration, Androth.
 16. Shri. P.P. Nallakoya, Helper, Fibre Factory,
U.T. Of Lakshadweep Administration, Agatti.
 17. Shri. P.M.C. Pookunni, Helper, Fibre Factory,
U.T. Of Lakshadweep Administration, Agatti.
 18. Shri. K. Hamsakoya, Helper, Fibre Factory,
U.T. Of Lakshadweep Administration, Agatti.
 19. T.P. Mohammed, Helper, Fibre Factory,
U.T. Of Lakshadweep Administration
- Respondents

By Advocate Shri. Sunil Jacob Jose, SCGSC for R-1
Advocate Mr. S. Radhakrishnan for R 2 to 6

The Application having been heard on 4.6.2010 the Tribunal delivered the following:

ORDER

HON'BLE MRS. K. NOORJEHLAN, ADMINISTRATIVE MEMBER

The applicant, a Temporary Status acquired Casual Labourer working under the 3rd respondent, is aggrieved by the promotion of his juniors as Helper overlooking his seniority.

The applicant, who entered service as NMR Labourer in the Fibre Factory, Kadamath, was granted temporary status on 1.11.93. There were 60 posts of Helper existing in 1997. He had passed IV standard in the year 1998-99 (A-1). The 3rd respondent promoted respondents 7 to 19 as Helpers (A-6 and A-7). Even the respondent No. 14 who left the Fibre Factory in 1987 and re-engaged in 1992 was promoted (A-8). As per the Recruitment Rules, he is entitled to be promoted in preference to his juniors having lesser years of service. Despite several representations, he was denied promotion. Hence, he has filed this O.A challenging his non-promotion despite his seniority and possessing the requisite qualifications provided in the Recruitment Rules.

2 The official respondents filed reply statement. They stated that Casual Labourers are absorbed to the post of Helper and that there is no question of promotion as contended by the applicant. They asserted that all the appointments to the post of Helper in the Factory

M

have been done as per the Recruitment Rules and that the applicant did not possess the requisite educational qualification, hence juniors who possessed the educational qualification were appointed. They further submitted that the seniority list of temporary status acquired Casual Labourers are published/revised periodically showing details including their educational qualification.

3 Applicant filed rejoinder reiterating that he has acquired the minimum educational qualification in the year 1998-99 and even then he was superseded.

4 I have heard learned counsel for the parties and perused the records.

5 The Annexure A-2 Recruitment Rules vide Col. 8 shows the educational and other qualifications prescribed for direct recruits to the post of Helper as pass in IV Standard with minimum 5 years experience as a worker in Coir Fibre Factories under Department of Industries. Col. 9 states that in the case of promotees the age and educational qualifications prescribed for direct recruits will not be applicable. Col. 12 shows the method of recruitment as by absorption of the daily rated workers /having temporary status in the Fibre Factories as per the instructions /orders issued by the Government of India from time to time and who have put in at least 240 days in each of the preceding two years and who possess the educational qualification of pass in IV standard.

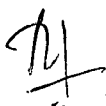
6 In the seniority list of Casual Labourers from 1.4.74 to



31.12.1988 at Annexure A-4, the applicant's name is at Sl. No. 44, the educational qualification is shown as Adult Education. Again in the seniority list as on 31.12.1995 at Annexure A-5, the applicant is shown at Sl. No. 2 having the educational qualification of Adult Education. The applicant has produced Annexure A-1 certificate issued by the Head master, Govt. High School, Kadamat to the effect that he has been examined in the annual examination for IV standard held in the year 1998-99 and passed.

7 A perusal of the order at A-6 dated 20.9.2007 appointing Casual labourers with temporary status working to the post of Helper would show that S/Shri P.K. Attakoya and others who are admittedly juniors to the applicant as per the seniority list published as on 31.10.1998 (Annexure A-5) and impleaded in the party array as respondents 7 to 19, have been appointed overlooking the seniority of the applicant who is at Sl. No. 2. The sole reason put forward by the respondents in the reply statement is that the applicant does not possess the minimum educational qualification of pass in the IV standard. However, in the provisional seniority list 21.3.2009 at Annexure R-3(b) produced by the respondents themselves, the applicant is shown at Sl. No. 1 with the educational qualification of IV standard and he has completed 25 years of service. Therefore, there should not have any confusion in the mind of the respondents that the applicant did not possess the requisite educational qualification from 13.4.1999.

8 In this view of the matter, I declare that the applicant possessess the educational qualification of IV standard w.e.f the date



of passing the examination held in the academic year 1998-99 and hence he is entitled to be appointed to the post of Helper in preference to his juniors who are appointed thereafter. Accordingly, I direct the official respondents 1 to 6 to consider the applicant for promotion to the post of Helper from the date on which his immediate junior was promoted after the date of the applicant passing the IV standard examination with all consequential benefits. This shall be done within two months from the date of receipt of a copy of this order.

Dated 14th June, 2010


K. NOORJEHAN
ADMINISTRATIVE MEMBER

kmn