

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 464 of 2000

Wednesday, this the 24th day of July, 2002

CORAM

HON'BLE MR. G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER
HON'BLE MR. K.V. SACHIDANANDAN, JUDICIAL MEMBER

1. All India Naval Clerks Association
156/38 - Star Villa, Thevara, Kochi
represented by its General Secretary K.S Babu,
(formerly known as Southern Naval Command
Civilian Clerks' Association)
2. K.G. Johnson,
Command Naval Transport
Workshop, Naval Base, Kochi-4

[By Advocate Mr. S. Radhakrishnan]

Versus

1. Union of India represented by Secretary, Ministry of Defence, New Delhi.
2. The Chief of the Naval Staff, Naval Headquarters, New Delhi - 110 011
3. The Chief Staff Officer (P&A), HQs Southern Naval Command, Kochi - 682 004
4. Mr. R. Rajagopalan Nair, Senior Personnel Assistant (Gazetted), Office of the Flag Officer Commanding-in-Chief, Southern Naval Command, Kochi - 682 004

The application having been heard on 24-7-2002, the Tribunal on the same day delivered the following:

O B D E B

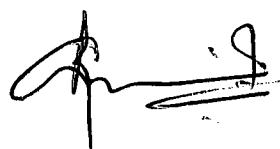
HON'BLE M.B. G. RAMAKRISHNAN ADMINISTRATIVE MEMBER

Applicants, aggrieved by A1 order communicated under No.Signal DTG:161938/MAR dated 16th March, 2000 by which the 4th respondent was given promotion to the post of Civilian Gazetted Officer (Administrative Officer Grade-II), filed this Original Application seeking the following reliefs:-

[Signature]

- "(a) Call for records relating to Annexure-A1 Order and quash the same.
- (b) To declare that Office Superintendents alone are eligible to be promoted to the posts of Civilian Gazetted Officer (Administrative Officer Grade-II).
- (c) To direct the 2nd respondent to take appropriate action on Annexure-A6 representation.
- (d) Grant such other reliefs as may be prayed for in the circumstances of the case.
- (e) Award costs of the respondents."

2. The applicants claimed that he was the General Secretary of All India Naval Clerks Association representing Ministerial Staff in the category of clerical cadre which included Lower Division Clerks, Upper Division Clerks, Hindi Typists and Assistants working in the establishments/units under the Indian Navy. The 2nd applicant was a senior Assistant whose promotion prospects would be affected if the present method of promotion would continue. It was submitted that the 4th respondent had entered the service as Stenographer Grade-III on 4-11-1969 and subsequently promoted as Stenographer Grade-II, Stenographer Grade-I and after putting in 24 years of service, he was promoted as Senior Personal Assistant on 20-9-1993. While working as Senior Personal Assistant in the scale of Rs.6500-10500, he had been promoted as Civilian Gazetted Officer in the same pay scale by the 2nd respondent as per the impugned order dated 16th March, 2000. According to the applicants, the 4th respondent along with two others filed OA No.1061/99 seeking a declaration that the respondents were bound to follow A2 Recruitment Rules. Their further prayer was to quash A6 order by which their request for grant of promotion to the post of Civilian Gazetted Officer was rejected. The said Original Application was pending and during the pendency of OA No.1061/99, the Naval Headquarters issued



the order promoting the 4th respondent to the post of Civilian Gazetted Officer which had been redesignated as Administrative Officer Grade-II. The applicants submitted A6 representation to the 2nd respondent. It was submitted that after the submission of A6 representation no promotions had taken place and the 1st applicant was under the bonafide impression that the promotions would be made exclusively from among the Office Superintendents and while so, when the 4th respondent was promoted, this Original Application was filed. It was submitted that when A3 order had been issued, without any special reasons the 2nd respondent could not act against the policy of the Government. Further, the Original Application filed by the 4th respondent along with two others was pending before this Tribunal. Hence, the action of the official respondents in promoting the 4th respondent was illegal.

3. The official respondents filed reply statement. They relied on R3(A) Recruitment Rules and submitted that every 10th vacancy in the promotion quota was earmarked for the eligible Senior Personal Assistant and in accordance with the said rules, the Departmental Promotion Committee for promotion to the post of Civilian Gazetted Officer was held on 16th March, 2000 and as per the percentage of vacancies, one slot by rotation was earmarked for Senior Personal Assistant. The Departmental Promotion Committee considered the eligible officers and empanelled 8 officers for promotion to the post of Civilian Gazetted Officer. Out of these 8 names, 7 individuals were from Office Superintendent Grade-I and one was from Senior Personal Assistant. They were thus promoted. It was submitted that the 4th respondent was promoted on the basis of the Recruitment Rules and Government orders. They also referred to SRO 174/95 which provided for promotion of Office Superintendent Grade-I and Senior Personal Assistant in the

ratio of 9:1 between Office Superintendent Grade-I and Senior Personal Assistant. It was also submitted that after the recommendations of the 5th Central Pay Commission were implemented by the Government, a number of pay scales had been merged by the Government making the feeder post and promotion post carry identical pay scales and the DOP&T, the nodal Ministry for issuing instructions on promotion policies, had given a ruling that in case the promotion was effected to a post carrying identical pay scales, the benefit of fixation of pay under FR 22(A)(2)(a) would not be admissible by R3(B) letter dated 6-4-1999. It was also submitted that the recruitment roster and reservation roster were independent of each other as per R3(C) letter dated 20-1-2000. Further, in terms of A1, the DOP&T OM No.36012/2/96-Estt.(Res) dated 12th July 1997, since the recruitment is vacancy based, it may happen that factual number of promotees and direct recruits in the cadre did not correspond to the number of posts earmarked in the respective reservation roster and rectification of the representation as per prescribed percentage by the prescribed mode of recruitment at the earliest possible should be the goal. In the light of the above, even if at the moment it was accepted that the quota for Senior Personal Assistants had exceeded as per post-based roster, this could be rectified later. At the same time, on the basis of the vacancy-based roster, the quota had not been exceeded. It was submitted that the Original Application was devoid of merit and was liable to be dismissed.

4. Heard the learned counsel for the parties.

5. Shri S.Radhakrishnan, the learned counsel for applicants took us through the factual aspects and submitted that the applicants' specific case is that in the face of the



post-based roster there were more number of Civilian Gazetted Officers from the Senior Personal Assistants side than from the Ministerial side. At the same time, this Tribunal had by its order dated 20-12-2001 decided OA No.1061/99 filed by the 4th respondent and two others.

6. Learned counsel for the official respondents reiterated the points made in the reply statement.

7. We have given careful consideration to the submissions made by the learned counsel for the parties and the rival pleadings. We find that OA No.1061/99 filed by the 4th respondent and two others has been decided by this Tribunal by order dated 20-12-2001. In that OA, the 4th respondent had challenged A4 reply given to him in response to his representation dated 10-5-1999 submitted pursuant to the order of this Tribunal in OA No.482/99. We find that the main ground on which the applicants in this Original Application are assailing A1 is based on A3 and A4. The validity of A4 had been gone into by this Tribunal in OA No.1061/99. In OA No.1061/99, this Tribunal held as follows:

"3. We have heard the learned counsel appearing on either side and have also perused the pleadings very carefully. We find that respondents 1 to 4 are confused regarding quota-rota and communal reservation roster. The changeover from vacancy based roster to post based roster is relevant for reservation to reserved categories like SC and ST. That has nothing to do with the quota earmarked for Office Superintendents and Senior Personal Assistants. Quota-rota and communal reservation are entirely different aspects. Annexure R1 is relevant only in regard to reservation for SCs and STs. So long as the statutory recruitment rules have not been amended, respondents 1 to 4 are bound to consider the Senior Personal Assistants for promotion against their quota against vacancies arising. That the pay scale of Senior Personnel Assistants has become equal to that of Civilian Gazetted Officers is also no valid reason for not considering them for promotion because Senior Personal Assistants continue to be feeder grade for promotion as Civilian Gazetted Officers.



4. In the result, the application is allowed. Impugned order Annexure A6 is set aside. Respondents 1 to 4 are directed to consider the case of applicants for promotion as Civilian Gazetted Officers against the quota earmarked for Senior Personal Assistants as per the Recruitment Rules by convening a review departmental promotion committee meeting and if the departmental promotion committee recommends any one of them for promotion, to promote them with effect from the due date with consequential benefits. If any Office Superintendent has been promoted as per Annexure A3 order in excess of the quota earmarked for that category, respondents 1 to 4 may revert the juniormost excess promotee to accommodate the applicants or any one of them if recommended by the departmental promotion committee for promotion. The above exercise shall be completed and orders issued within three months from the date of receipt of a copy of this order. No costs."

8. When A4 order, on the basis of which the applicants in this Original Application are assailing A1, had been set aside and quashed by this Tribunal in OA No.1061/99, this Original Application is only to fail.

9. Accordingly, we dismiss this Original Application with no order as to costs.

Wednesday, this the 24th day of July, 2002



K.V. SACHIDANANDAN
JUDICIAL MEMBER



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER

Ak.

A P P E N D I X

Applicants' Annexures:

1. A-1: Naval Head Quarters Signal ETG 161938/MAR.
2. A-2: True copy of the seniority list of CGO's in the Navy.
3. A-3: True copy of the Naval head quarters letter No.CP (NG)/2813 dated 16.9.98.
4. A-4: True copy of the reply to the representation submitted by the 4th respondent dated 23rd June, 1999.
5. A-5: True copy of relevant portion of SRO No.174.
6. A-6: True copy of the representation dated 6th October, 1998 by the applicants.

Respondents' Annexures:

1. R-3A: Photo copy of the S.R.O. 174/95.
2. R-3B: Photo copy of the Ministry of Defence I.D.No.PCII(17)/1/98/D (Civ.1) dated 6.4.1999.
3. R-3C: Extract of the DPO&T No.36028/10/99 Estt.Res. dated 20.1.2000.

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