

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A.No.476/03

Monday this the 15th day of September 2003

C O R A M :

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

M.P.Pookunhikoya  
S/o.Koyammakoya  
Tally Clerk, M.V.Laccadives,  
UT of Lakshadweep.

Applicant

(By Advocate Mr.Shafik M.A.)

Versus

1. Union of India represented by  
the Administrator,  
U.T. of Lakshadweep,  
Kavaratti.
2. The Executive Engineer,  
Department of Electricity,  
U.T. of Lakshadweep,  
Kavaratti.
3. The Port Officer,  
U.T. of Lakshadweep,  
Kavaratti.
4. The Managing Director,  
Lakshadweep Development Corporation,  
Kochi.

Respondents


(By Advocate Mr.S.Radhakrishnan)

This application having been heard on 15th September 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 while working as Helper to Lineman in the  
Electricity Department of the Lakshadweep Administration was by  
Annexure A-5 order dated 9.2.98 of the Deputy Director (Supply &  
Transport) allowed to work as Tally Clerk on Board M.V.Ubaidulla  
Barge. Since then he has been continuing and getting allowances  
incidental to this arrangement. His grievance is that Annexure  
A-1 order was issued by the 3rd respondent requesting the 2nd  
respondent to withdraw the services of the applicant and similar



others and pursuant to that Annexure A-2 order was issued by the 2nd respondent withdrawing the services of the applicant from the M.V.Laccadives and directing him to report to the Electricity Department and that further by Annexure A-3 order his representation for regularisation on the post of Tally Clerk and for retention there has been turned down by the 1st respondent. It is alleged in the application that the applicant has been performing his duties for all these years satisfactorily. That the decision to recall the applicant alone and permitting others to continue amounts to hostile discrimination while the applicant is entitled to continue as Tally Clerk on Board M.V.Laccadives and for absorption on the post, allege the applicant. With these allegations the applicant has filed this application seeking the following reliefs :-

- i. to call for the records relating to Annexure A-1 to A-17 and to quash Annexure A-1, A-2 & A-3 being illegal and arbitrary;
- ii. to declare that the applicant is entitled to continue as Tally Clerk on Board m.v.Laccadives and other vessel in the light of Annexure A-5 appointment and to direct the respondents to continue the applicant as Tally Clerk on board m.v.Laccadives or any other such vessels till a regularly selected Tally Clerk is appointed;
- iii. to direct the respondents to consider the applicant for regular absorption as Tally Clerk or to redesignate the applicant as has been done by the LPWD;


2. The respondents in their reply statement contend that the Port Department does not have a post of Tally Clerk at present to absorb the applicant and that as the applicant has not been working against a sanctioned post but was on temporary work arrangement as agreed to by the Electricity Department and the Port Department the applicant has no right for absorption or continuance, that even if there is a sanctioned post the applicant who is not a graduate, does not possess the

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qualification required for recruitment to the post and that the applicant does not have any valid claim either for absorption or for retention the application is liable to be dismissed.

3. The applicant has filed a rejoinder in which it is contended that persons similarly situated like him from L.P.W.D. are allowed to continue and therefore the action on the part of the respondents to recall him to the Electricity Department is arbitrary.

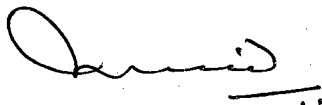
4. We have gone through the pleadings and materials placed on record and have heard Shri.Shafik M.A., learned counsel for the applicant as also Shri.S.Radhakrishnan, learned counsel for the respondents. The applicant is an official of the Electricity Department. He has not been appointed to any post in the Port Department. He draws his salary from the Electricity Department but gets only messing allowance for the work he is performing on board vessels. The applicant has no claim to any post in the Port Department as he has not been transferred to that Department and he has worked there only on a temporary work arrangement to take care of the cargoes of the Electricity Department. These are facts beyond dispute. It was an mutual agreement between the Electricity Department and the Port Department that the applicant was deployed to work on Board M.V.Laccadives. Since the two departments have decided to put an end to that arrangement the applicant who has no claim to any post with Port Department has no right to insist that it should not be done. It is the prerogative of the Electricity Department to which the applicant belongs to utilise his services to the advantage of the Department. By terminating the work arrangement no right of the



applicant as an employee of the Electricity Department has been adversely affected. Therefore the applicant does not have a legitimate grievance deserving redressal. That somebody from L.P.W.D. is allowed to continue is no reason for the Tribunal to compel the respondents to allow the applicant to continue the arrangement. Regarding the claim of the applicant for absorption in the Port Department, as there is no sanctioned post of Tally Clerk, and even if there be a post since the applicant does not possess the qualification for recruitment, his claim is baseless and untenable.

4. In the light of what is stated above finding no merit the application is dismissed. No costs.

(Dated the 15th day of September 2003)



T.N.T. NAYAR  
ADMINISTRATIVE MEMBER



A.V. HARIDASAN  
VICE CHAIRMAN

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