

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.491/10

Tuesday this the 22nd day of June 2010

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

Charls K.J.,
S/o.Joseph K.K,
Residing at Kannamaly House,
Kannamaly PO, Kochi – 682 008.

...Applicant

(By Advocate Mr.M.R.Hariraj)

V e r s u s

1. Union of India represented by the Secretary to Government of India, Ministry of Defence, New Delhi.
2. Flag Officer Commanding-in-Chief, Southern Naval Command, Kochi – 682 004. ...Respondents

(By Advocate Mr.Sunil Jacob Jose,SCGSC)

This application having been heard on 22nd June 2010 this Tribunal on the same day delivered the following :-

O R D E R

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

The applicant is a Ex-Naval Apprentice who is entitled for an appointment to the post of Tradesman (Skilled). However, the Department has not given such appointment to him in spite of his representation dated 12.4.2010. Hence, he filed this Original Application praying that the respondents may be directed to consider his case for absorption as Tradesman (Skilled) based on his seniority as Ex-Naval Apprentice with effect from the date of occurrence of the vacancy.



.2.

2. The Original Application has been admitted by this Tribunal and notice has been ordered to the respondents to file their reply statement, if any. However, though no reply has been filed on behalf of the respondents, we heard Shri.Rajesh on behalf of Shri.Sunil Jacob Jose,SCGSC counsel appearing for the respondents and also Shri.M.R.Hariraj counsel appearing for the applicant. The question to be considered in this Original Application is that whether the applicant is entitled for the reliefs which he claims or not.

3. Counsel appearing for the applicant submits that as per the scheme chalked out under Annexure A-2 framed for giving appointment to Ex-Naval Apprentice would show that the applicant is entitled for the vacant post on the basis of his seniority. It is also contended by the counsel appearing for the applicant that as per the order dated 14.6.2010 in OA 144/09 this Tribunal considered similar question and ordered the case of the applicant therein can be considered and the respondents were directed to that effect also. To the above argument counsel appearing for the respondents has submitted that the Annexure A-2 rule though provides for an appointment to Ex-Naval Apprentice there shall be vacancy for appointing such Ex-Naval Apprentice and that apart a seniority list also has to be perused. Only thereafter the applicant could be considered for such appointment.

4. We have considered these arguments of the counsel appearing for the parties. It is an admitted fact before this Tribunal that the applicant is a Ex-Naval Apprentice who is entitled for the benefits under Annexure A-2 rules. If the Annexure A-2 rules is considered, it is mandatory on the part of the respondents to give appointment to such Ex-Naval Apprentice as

09

.3.

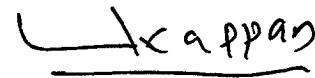
and when vacancy arises and also on the basis of the seniority. In this context the counsel appearing for the applicant brought to our notice two names of his seniors, namely, Shri.P.K.Chandran and Shri.A.D.Chacko to whom appointment was offered to the same cadre but they have refused that offer. If so, it is clear and justifiable to hold that there are vacancies existed for the purpose of accommodating the applicant. This part of the contention of the applicant is also not disputed by the counsel appearing for the respondents. At this juncture, counsel appearing for the respondents submits that the Department got an objection regarding age bar for appointing the applicant. That question has already been covered by this Tribunal in OA 94/03 and OA 653/03. In the above orders it is held that there is no upper age limit for appointment by absorption under the Annexure A-2 rules.

5. In the above circumstances, in the light of the reasons stated in the order passed in OA 144/09 and on the findings rendered in that Original Application, this Original Application is justifiable to be allowed with a direction to the respondents to consider the case of the applicant and offer appointment as per the Annexure A-2 rules, if possible with effect from the date of occurrence of the vacancy. Such drill has to be completed within 45 days from the date of receipt of a copy of this order.

(Dated this the 22nd day of June 2010)


K.NOORJEHAN
ADMINISTRATIVE MEMBER

asp


JUSTICE K.THANKAPPAN
JUDICIAL MEMBER