

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. No. 503 of 1995

Wednesday, this the 3rd day of July, 1996

CORAM

HON'BLE MR JUSTICE CHETTUR SANKARAN NAIR, VICE CHAIRMAN

HON'BLE MR P V VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

1. A.C. Mohammed Irshad, Port Assistant,
Grade B, Amini Island,
Union Territory of Lakshadweep.
2. K.M. Abdul Jabbar, Port Assistant,
Grade B, Kadmat Island,
Union Territory of Lakshadweep.
3. P.S. Musthafa, Port Assistant,
Grade B, Chetlat Island,
Union Territory of Lakshadweep.
4. Moosa Fythilagothi, Port Assistant,
Grade B, Minicoy Island,
Union Territory of Lakshadweep. ... Applicants

By Advocate Mr Shafik M.A.

Vs

1. ✓ Union of India rep. by the Secretary,
Ministry of Home Affairs, New Delhi.
2. The Administrator, Union Territory of Lakshadweep,
Kavaratti.
3. The Port Officer, Union Territory of Lakshadweep,
Kavaratti.
4. K.K. Musthafa, Port Assistant,
Grade-B, Signallor, Androth Island,
Union Territory of Lakshadweep.
5. T.K. Kunhikoya, Port Assistant,
Grade-B, Signallor, Androth Island,
Union Territory of Lakshadweep.
6. C.M. Attakoya, Port Assistant,
Grade-B, Signallor, Kavaratti,
Union Territory of Lakshadweep.
7. K.C. Badarudeen, Port Assistant,
Grade-B, Signallor, Agathi Island,
Union Territory of Lakshadweep. ... Respondents

By Advocate Ms. Beena for Advocate Mr MVS Nampoothiri (For R2 & 3)

By Advocate Mr MV Thamban (represented) for R 4 to 7)

The application having been heard on 3rd July 1996,
the Tribunal on the same day delivered the following:

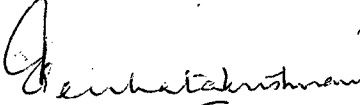
O R D E R

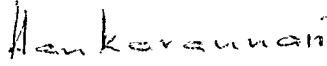
CHETTUR SANKARAN NAIR(J), VICE CHAIRMAN

Applicants who were Port Assistants Grade-B at the time of filing the application are aggrieved by the merger of the posts of Port Assistant (sic: presumably Port Assistant, Grade-B) and the posts of Signallor to a single cadre. We are told by counsel for applicants and counsel for Lakshadweep Administration that there is only one grade for Port Assistants now, and that it is the scale of Port Assistants Grade-A. Those earlier in the lower scale of Port Assistant Grade-B (Rs.1200 - 2040) are now in the higher scale of Port Assistant Grade-A. Port Assistants Grade-A are in the scale of Rs 1350 -2200, while Signallors are in the grade Rs 1200 - 2040. Those who are in a higher scale and those who are in a lower scale (in the absence of merger of Port Assistants-A and Signallors into one cadre) constitute different cadres and those in the scale of Rs 1350 - 2200 cannot be integrated with Signallors in the scale of Rs 1200-2040.

2. With this declaration, we dispose of the application without going into the other contentions.
No costs.

Dated the 3rd July, 1996.


P V VENKATAKRISHNAN
ADMINISTRATIVE MEMBER


CHETTUR SANKARAN NAIR (J)
VICE CHAIRMAN

CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O.A.No.503/95

Friday this the 1st day of April, 1998.

CORAM:

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN

HON'BLE SHRI S.K.GHOSAL, ADMINISTRATIVE MEMBER

1. A.C.Mohammed Irshad, Port Assistant,
Grade-D, Amini Island,
Union Territory of Lakshadweep.
2. K.N.Abdul Jabbar, Port Assistant,
Grade-D, Kadamat Island,
Union Territory of Lakshadweep.
3. P.S.Musthafa, Port Assistant,
Grade-B, Chetlat Island,
Union Territory of Lakshadweep.
4. Moosa Penthilagothi, Port Assistant,
Grade-B, Minicoy Island,
Union Territory of Lakshadweep. ..Applicant

(By Advocate Mr. Shefik M.A.)


vs.

1. Union of India, represented by the
Secretary, Ministry of Home Affairs,
New Delhi.
2. The Administrator, Union Territory of
Lakshadweep, Kavaratti.
3. The Port Officer, Union Territory
of Lakshadweep, Kavaratti.
4. K.K.Musthafa, Port Assistant,
Grade-B, Signallor, Androth Island,
Union Territory of Lakshadweep.
5. T.K.Kunhikoya, Port Assistant,
Grade-B, Signallor, Androth Island,
Union Territory of Lakshadweep.
6. C.M.Attakoya, Port Assistant,
Grade-B, Signallor, Kavaratti,
Union Territory of Lakshadweep.
7. K.C.Baharudeen, Port Assistant,
Grade-B, Signallor, Agathi Island,
Union Territory of Lakshadweep. ..Respondents

(By Advocate Mr.S.Radhakrishnan)

(By Advocate Mr. M.V.Thampan)

This Application having been heard on 20.4.98 the Tribunal
on 1.5.98 delivered the following:



O R D E R

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

The applicants who are working as Port Assistants Gr. B in the Union Territory of Lakshadweep have jointly filed this application aggrieved by the action of the respondents 1 to 3 in considering the Port Assistants^B as also Signallers as a single cadre for promotion to the post of Port Assistant Gr.A.

2. According to the Recruitment Rules A.3 dated 12.5.1987 Port Assistants^B and Signallers having five years of minimum service in the grade are made eligible for promotion to the Grade of Port Assistants Gr.A. This according to the applicants is illegal, arbitrary and irrational. The Port Assistants Gr.B and Signallers having been recruited under two different Recruitment Rules have been amalgamated into one cadre by the impugned Recruitment Rules A.3, which according to the applicants is not legally sustainable. Against the provisional Seniority List of Port Assistants Gr.B/Signallers circulated by the respondents 1 to 3, the applicants made representations which was rejected by order dated 5.10.94 (A2). Thereafter the respondents 1 to 3 have circulated a gradation list of Port Assistants Gr.B as also of Signallers separately. but providing that for the purpose of promotion as Port Assistants Gr.A the length of service in the equivalent grade would be the guiding factor. The applicants are aggrieved by this. According to them the post of Port Assistant Gr.B is superior to that of Signallers and

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the Signallers have all along been considered as subordinate to Port Assistant Gr.B. Amalgamation of the two different grades of Port Assistants Gr.B and Signallers with unequal status according to the applicants is violative of Art. 14 of the Constitution of India. With these allegations the applicants have prayed to have the impugned orders A.1, A2 and A3 quashed.

3. Respondents 1&2 in their reply statement contend that Port Assistant Gr.B and Signallers are of identical status, the Recruitment ~~qualification and the~~ pay scale being same and that the amalgamated Recruitment Rules was brought into effect considering the interest of service. As the impugned Recruitment Rules A3 was notified as early as on 12.5. 87 they contend that the application being highly belated is liable to be dismissed in limine.

4. The respondents 4 to 7 contend that there is no basis for the contention of the applicants that Signallers are technical officials, ^{and} ~~that~~ they have all along been treated as subordinates of Port Assistants. They contend that the post of Signallers as also ^{of} ~~Port~~ Assistants Gr.B were treated as interchangeable, the length of service being the only criterion for seniority. They have relied on a telegraphic message F.No.1/12/87-Port dated 2.11.1987 which is extracted in the reply statement wherein it has been clarified that the 1st applicant Irshad being junior to Badarudeen K. Cheriyyedom (7th respondent) should work as Signaller under the 7th respondent, who would hold charge as Port Assistant Gr.B to establish that the Signallers and Port Assistants Gr.B. were treated equals and seniority being determined on the basis of length of service in the equivalent grade. The respondents have also

contended that the applicants 2 to 4 who have been recruited under the Recruitment Rules A.3. have no right to challenge the Recruitment Rules. According to the respondents the application is devoid of any merit and therefore, it is liable to be dismissed.

5. This Original Application was earlier disposed off by the Bench by an order dated 3.7.1996 on being informed by the counsel of the applicants as also for the respondents that there was only one grade of Port Assistants then and that the scale of pay of Port Assistant Gr.A was Rs.1350-2200 while that of the Signallers were only Rs.1200-2040. It was held that the Port Assistant Gr.A could not be integrated with Signallers in the scale of Rs.1200-2040. The order of the Tribunal has been set aside by the Hon'ble Supreme Court in Civil Appeal No.8358/1997 remanding the case for a fresh disposal on merits indicating reasons. Thus the case has come for hearing before us.

6. We have carefully gone through the pleadings in this case and heard the learned counsel appearing for the parties. The respondents 4 to 7 have in their reply statement contended that the applicants 2 to 4 who joined as Port Assistant Gr.B on 20.10.87, 21.4.92 and 25.4.92 respectively having been recruited under the impugned Recruitment Rules (A3) dated 12.5.87 notified in the Lakshadweep Gazette, cannot challenge the Recruitment Rules. That the Recruitment Rules A3 was notified and the applicants 2 to 4 were recruited according to this Recruitment Rules is not refuted by the applicants. As the applicants 2 to 4 were obviously recruited after A3 Recruitment Rules were issued, the arguments of Respondents 4 to 7 that they cannot challenge the provisions of the Recruitment Rules is

well founded. Coming to the challenge to the Recruitment Rules A3 we find that the Signallers as also the Port Assistants Gr.B were in identical pay scales and were being treated as interchangeable, the senior person being appointed to hold charge of the post of Port Assistant and the junior being posted as Signaller. It is evident from the telegraphic message F.No.1/12/87-Port dated 2.11.87 extracted in the reply statement of respondents 4 to 7 and from Ann.R.5 an extract of posting order that Shri Badarudeen K.Chariyadam, Signaller was transferred as Port Assistant and the first applicant was directed to work as Signaller under him, ~~xxxxxxxxxxxx~~ that the post of Port Assistant and Signallers were considered equal and interchangeable. Even before the amended ~~xxxxxxx~~ Recruitment Rules (A3) ^{was notified} the post of Port Assistant Gr.B and that of the Signallers were treated as interchangeable as is seen from a posting order dated 14.3.83 (Ann.R.4). Therefore there is no basis in the claim of the applicants that the Port Assistants were considered superior in status to Signallers. It is the prerogative of the Government to add more posts in a cadre and to amalgamate different services into one. By A.3 Recruitment Rules the post of Port Assistant Gr.B, Cargo Superintendent, Port Assistant Gr.B/Signallers were all brought under one Recruitment Rules called the Lakshadweep Administration Shipping and Transport Group C Recruitment Rules, 1987. Port Assistant Gr.B/Signaller were treated identical in respect of pay scales as also for promotion to the post of Port Assistant Gr.A. These Recruitment Rules have been operated ~~for~~ recruitment including that of applicants 2 to 4 have been made and promotions effected in

accordance with these Recruitment Rules. We do not find any arbitrariness or violation of any fundamental rights in amalgamating the posts of Port Assistant Gr.B as also the Signallers. It is for the competent authority, in this case the Administrator to frame the Recruitment Rules taking into account the interests of administration and service. So long as the amalgamation of the service into one by the impugned Recruitment Rules A.3 have been done without in any way offending the constitutional provisions, we are of the considered view that the challenge against the Recruitment Rules has no force at all. The A2 reply to the representations made by the applicants for deleting the names of the Signallers from the gradation list of Post Assistants gives proper reason for rejection and therefore the said order is perfectly justified. The gradation list of Port Assistant Gr.B and Signallers as is notified by the order dated 9.3.95 (A1) providing for ~~xxx~~ promotion to the grade of Port Assistants Gr.'A' on the basis of the seniority in the grade is also fully justified in view of the fact that according to the Recruitment Rules A3 Port Assistant Gr.B as well as Signallers are entitled to be considered for promotion to the higher post of Port Assistant Gr.A on completion of 5 years of service in the grade.

7. In the light of the above discussions we do not find any merit in the application, which is dismissed leaving the parties to bear their own costs.

Dated this the 1st day of May, 1998.


S.K. GHOSAL
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

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List of Annexures

1. Annexure A.1 Circular No.1/12/85-Port dated 9-3-95 issued by the 2nd respondent.
 2. Annexure A.2 Circular No.1/12/85-Port(1) dated 5-10-94 issued by the 3rd respondent.
 3. Annexure A.3 Notification F.No.3/38/84-Port dated 12-5-87 issued by the 2nd respondent.
 4. Annexure A.5 Notification No.1/11/78-Shipping dated 25-11-81 issued by the 2nd respondent.
 5. Annexure R.4 Proceedings of the 3rd Port Officer F.No.1/18/81-Shipping dated 14-3-83
 6. Annexure R.5 Order F.No.1/8/90-Port dated 11-9-91 of the 3rd respondent Port Officer.
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