

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.NO.508/2001

Wednesday this the 20th day of June, 2001

CORAM

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

Sumana N.Menon W/o M.N.Menon,
aged 41 years,
Assistant Commissioner (Land Assignment)
Office of the Commissioner of Land Revenue,
Thiruvananthapuram.Applicant

(By Advocate Mr. N. Unnikrishnan)

V.

1. State of Kerala, represented by the
Chief Secretary to Government,
Secretariat,
Thiruvananthapuram.
2. Union of India, represented by the
Secretary to the Government of India,
Ministry of Personnel, Public
Grievances and Pension, Department of
Personnel and Training, New Delhi.
3. Union Public Service Commission,
represented by its Secretary,
Union Public Service Commission,
Dholpur House, New Delhi. ..Respondents

(By Advocate Mr. CA Joy (for R.1)
Mr.TA Unnikrishnan (rep.) for R2&3

The application having been heard on 20.6.2001, the Tribunal
on the same day delivered the following:

ORDER

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

The applicant appointed as Deputy Collector in the
Kerala State Civil Service with effect from 1.6.82 under
Special Recruitment for Scheduled Castes/Scheduled Tribes
had approached this Tribunal earlier filing OA 722/93
claiming that she was entitled to be considered for
appointment by promotion to the Indian Administrative
Service w.e.f. 1.4.91 reckoning the period during which she
was under training as service. This Tribunal had vide
judgment dated 6.11.95 dismissed the Original Application.
Finding that this Bench of the Tribunal had in OA 1298/98

considered the issue whether the period of training as Deputy Collector should be treated as service for the purpose of consideration for induction into the I.A.S and had decided that the period should be counted as service deviating from the view taken in OA 722/93 holding that the said ruling was rendered per incurium, the applicant made a representation on 16.3.99 to the 1st respondent. Finding no response the applicant has filed this application for the following reliefs:

- (i) to call for the records leading to the non consideration of Annexure.A1 representation by the first respondent;
- (ii) to declare that the first respondent is liable to consider the case of the applicant in the light of Annexure.A5 order passed by this Hon'ble Tribunal;
- (iii) to declare that the applicant is entitled to be considered for promotion to the post of Indian Administrative Service Cadre on 1.4.91;
- (iv) to direct the respondents to consider the applicant's claim for promotion to the post of Indian Administrative Service Cadre as on 1.4.91 and issue appropriate orders within a reasonable time with all consequential benefits.
- (iv) Issue such other or further directions or orders as this Hon'ble Tribunal may deem fit and necessary in the interests of justice ; and
- (v) award the costs of this Original Application.

2. We have perused the application and have heard the learned counsel of the applicant, Shri CA Joy, Govt. Pleader appearing for Respondent No.1 and the counsel appearing for the Union of India. This application cannot be entertained for a variety of reasons. First of all the applicant made a representation on 16.3.99 and she has not filed any application within a period of eighteen months. Secondly the applicant had filed OA 722/93 for the identical reliefs as is sought in this OA and the Tribunal had after

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considering the rival contentions dismissed the application. The applicant has not chosen to take up the matter before higher forum and therefore, the decision in OA 722/93 has become final as between the applicant and the respondents. Just because in a later case the Tribunal had taken a different view would not change the binding nature of the decision inter parties namely the applicant and the respondents. The claim of the applicant therefore, is barred not only by limitation but also by principles of res judicata.

3. In the light of what is stated above, the application is rejected under Section 19(3) of the Administrative Tribunals Act, 1985.

Dated the 20th day of June, 2001


T.N.T. NAYAR
ADMINISTRATIVE MEMBER

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A.V. HARIDASAN
VICE CHAIRMAN