

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA 52/2002

Tuesday, this the 4th day of June, 2002.

CORAM :

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

1. Denny Varghese,
Kattassery House,
North Piramadom P.O.,
Muvattupuzha.
2. R. Santhosh Kumar,
Santhosh Bhavan,
Vazhathara House,
Pallipad P.O.,
Alappuzha.
3. T.D. Deepak,
Thaluthara House,
Eramalloor P.O.,
Cherthala,
Alappuzha.
4. S. Gopakumar,
Parippallil House,
Mukundapuram P.O.,
Chavara, Kollam.

... Applicants

(By Mr. Pulikool Aboobacker)

vs

1. The Union of India rep. by
The Secretary to Government of India,
Ministry of Defence,
New Delhi.
2. The Chief of Naval Staff,
Naval Head Quarters,
New Delhi.
3. The Flag Officer,
Commanding-in-Chief,
Head Quarters,
Southern Naval Command,
Kochi - 682004.

... Respondents

(By Shri C. Rajendran, SCGSC)

... 2/-

The application having been heard on 4.6.2002, the Tribunal on the same day delivered the following :

ORDER

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

Pursuant to advertisement calling for applications for selection and appointment to the post of Unskilled Labourers, applicants and many others applied. Pursuant to the selection, the applicants were given offer of appointment by Annexure A1 to A4 letters dated 12.9.2001. On the basis of the above selection three persons have already been appointed. In the meanwhile, an application was filed before this Tribunal by persons who have been selected earlier for the same posts being sponsored by the Employment Exchange. The Tribunal allowed their application and directed the respondents to appoint the applicants therein against the vacancies notified. The official respondents filed O.P. No.32536/2000. The Hon'ble High Court of Kerala by order dated 12.10.2001(A9) upheld the decision of the Tribunal. However, it was observed that if any vacancies remained after making appointment from the select list earlier prepared, appointment could be made on the basis of the selection undertaken pursuant to the advertisement. Aggrieved by the inaction on the part of the respondents in following up the offer of appointment and aggrieved by the letters A5 to A8 by which direction to report to the headquarters on 20.9.2001 made in A1 to A4 was cancelled, the applicants have filed this application seeking to quash Annexure A5 to A8 and for a direction to appoint applicants as Unskilled Labourers under the 3rd respondent.

2. Respondents resist the claim of the applicants. They contend that the Hon'ble Tribunal has allowed OA NOS. 450/99 and 768/99 and directed to appoint the applicants therein who were placed in the select list and that without appointing 60 selected candidates, it was not possible to offer appointment to the

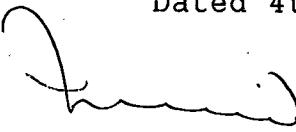
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applicants who were placed in the panel on the basis of the 2nd selection and that therefore they had no option but to issue A5 to A8 orders.

3. On a careful scrutiny of the pleadings and the materials placed on record, we find that nothing wrong with impugned action of the respondents in issuing A5 to A8 orders on the basis of the Tribunal's orders which has been upheld by the Hon'ble High Court of Kerala in O.P. No.32536/2000 only if there be any vacancy left after the appointment from the select list of earlier selection, appointment from the fresh list could be made. Therefore, since no vacancy is left out and since all the persons earlier selected have been not appointed, respondents could not honour the offer of appointment made to the applicants in this case.

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

Dated 4th June, 2002.



T.N.T. NAYAR
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

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APPENDIX

Applicants' Annexures:

1. A-1: True copy of the appointment order dated 12.9.2001 issued by 3rd respondent to 1st applicant.
2. A-2: True copy of the appointment order dated 12.9.2001 issued by 3rd respondent to 2nd applicant.
3. A-3: True copy of the appointment order dated 17.9.2001 issued by 3rd respondent to 3rd applicant.
4. A-4: True copy of the appointment order dated 12.9.2001 issued by 3rd respondent to 4th applicant.
5. A-5: True copy of the cancellation letters issued by 3rd respondent.
6. A-6: True copy of cancellation letter dated 20.9.2001 issued by 3rd respondent to 2nd applicant.
7. A-7: True copy of cancellation letter dated 25.9.2001 issued by 3rd respondent to 3rd applicant.
8. A-8: True copy of cancellation letter dated 20.9.2001 issued by 3rd respondent to 4th applicant.
9. A-9: True copy of the Judgement of High Court of Kerala dated 12.10.2001 in O.P.No.32536/2000.
10. A-10a: True copy of the representation dated 13.11.2001 submitted before 3rd respondent by 1st applicant.
11. A-10b: True copy of the representation dated 15.11.2001 submitted before 3rd respondent by 2nd applicant.
12. A-10c: True copy of the representation dated 23.11.2001 submitted before 3rd respondent by 3rd applicant.
13. A-10d: True copy of the representation dated 23.11.2001 submitted before 3rd respondent by 4th applicant.

Respondents' Annexures:

1. R-1: True photo copy of Hon'ble High Court of Kerala Judgement on CMP No.884/2002 in OP No.32536/2000 issued on 3.1.2002.

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