

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Original Application No. 522 of 2011

Friday, this the 18th day of November, 2011

CORAM:

Hon'ble Mr. Justice P.R. Raman, Judicial Member
Hon'ble Mr. K. George Joseph, Administrative Member

A.P. Kasmi, Police Constable B. No. 326,
 Special Branch Unit (Lakshadweep Police),
 Beypore, Calicut-15. **Applicant**

**(By Advocate – Ms. Seemanthini, Sr. along with
 Mr. M.R. Anison & Mrs. K.P. Geethamani)**

V e r s u s

1. Union of India, rep. by its Secretary to Govt.,
 Ministry of Home Affairs, New Delhi – 110 001.
2. Union Territory of Lakshadweep Administration,
 rep. by its Administrator, Kavaratti – 682 555.
3. The Superintendent of Police,
 Union Territory of Lakshadweep, Kavaratti-682 555.
4. Officer-in-charge of Special Branch Unit (Lakshadweep Police),
 Beypore, Calicut-35.
5. Officer-in-charge of Special Branch Unit (Lakshadweep Office),
 Willington Island, Indira Gandhi Road, Cochin-3.
6. B. Hamsakoya, PC 330, Minicoy Police Station,
 Minicoy Island, Union Territory of Lakshadweep-682 559.
7. Sainul Hameed, PC 334, Kavaratti Police Station,
 Union Territory of Lakshadweep, Kavaratti-682 555.
8. P.P. Koya, PC 336, Kalpeni Police Station,
 Union Territory of Lakshadweep, Kalpeni-682 557.
9. P. Kunhikoya, PC 340, Police Headquarters, Kavaratti,
 Union Territory of Lakshadweep-682 555.
10. P.I. Kunhikoya, PC 341, Special Branch Wing,

Wellington Island, Lakshadweep Office,
Kochi – 682 003.

11. P. Pookunhi, PC 342, Amini Police Station,
Amini, Union Territory of Lakshadweep-682 552.
12. K.K. Rafeek Zakariya, PC 344,
Kalpeni Police Station, Kalpeni,
Union Territory of Lakshadweep-682 557.
13. A.K. Shaikoya, PC 345, Kalpeni Police Station,
Kalpeni, Union Territory of Lakshadweep-682 557.
14. K.I. Mohamed Koya, PC 346, Chethlath Police Station,
Chethlath, Union Territory of Lakshadweep-682 554.
15. N. Pookuni, PC 347, Androth Police Station,
Androth, Union Territory of Lakshadweep-682 551.
16. K.P. Muralidharan, PC 348, Police Headquarters,
Kavaratti, Union Territory of Lakshadweep-682 555.
17. S. Babu, PC 350, Special Branch Wing, Wellington Island,
Lakshadweep Office, Kochi-682 003.
18. P. Anilkumar, PC 353, Special Branch Wing,
Wellington Island, Lakshadweep Office, Kochi-582 557.
19. B. Yousef, PC 354, Androth Police Station, Androth,
Union Territory of Lakshadweep-682 557. **Respondents**

**[By Advocate – Mr. Pradeep Krishna, ACGSC (R1) – Not present
& Mr. S. Radhakrishnan (R2-5)]**

This application having been heard on 18.11.2011, the Tribunal on the same day delivered the following:

ORDER

By Hon'ble Mr. Justice P.R. Raman, Judicial Member -

This Original Application is filed by the applicant seeking following relief:-

“(a) To set aside Annex. A1 order, since the same is issued in violation of applicant Fundamental Right under Article 14 & 16 of the Constitution;

[Signature]

(b) to declare as invalid the 'Promotion Test' held on 29.4.2011 at Kavaratti for effecting selection and appointment to the post of ASI (WO and RT) under Lakshadweep Administration, since all senior eligible police personnel in the feeder category were not given opportunity to write such promotion test;

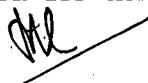
(c) to direct respondents 2 and 3 to send the applicant for in-service training for appointment to the post of ASI (WO and RT) before sending respondents 6 to 19 who are juniors to them in the PC cadre;

(d) to direct respondents 2 to 5 not to send any persons included in Annex.A1 order to in-service training to ASI (WO and RT) post before sending senior persons like the applicants to such training;

(e) to direct respondents 2 and 3 to keep unfilled one post of ASI (WO and RT) under the Lakshadweep, Administration for appointing the applicant to those posts;

(f) to direct respondents 2 to 5 to treat the applicant as senior to respondents 6 to 19 in the ASI cadre post."

2. The applicant is a senior Head Constable working in the Special Branch Unit of Lakshadweep Police at Beypore in Kozhikode District. He is a native of Agatti and enlisted as Police Constable in the year 1987. According to him he is eligible for promotion to the post of ASI (WO and RT). Willingness were sought from the police personnel working in all the Islands under the Lakshadweep Administration for selection and appointment to the above post. Selection and appointment to the said post is made based on seniority from among police personnel who have passed in the promotion test. The test was conducted on 29.4.2011 at Kavaratti. According to the applicant though he has expressed his willingness to appear in the promotion test and applied for ticket in the ship M.V. Bharat Seema plying from Cochin on 23.4.2011, due to non-availability of tickets, he could not get accommodation in the ship and thus, he could not attend the test held at Kavaratti on 29.4.2011. 81 persons appeared for the test,



except one all of them have come out successful. According to the applicant junior persons were selected for one year in service training vide Annexure A-1 order and challenging Annexure A-1 order this OA is filed.

3. In the reply statement it is contended that promotion to the post of ASI (W/O & R/T) is to be conducted from amongst HC/PC under Lakshadweep Police as per relevant rules and those who have passed in the test are selected on the basis of seniority. As per the relevant recruitment rules, those who have passed in the test have been selected. Since the applicant did not attend the promotion test, those Police Constables who passed the test are considered on the basis of seniority for promotion. The non-appearance in the examination is at the fault of the applicant himself and since he did not appear for the test he has no right to claim for promotion. It is also contended that all the HCs/PCs were given information about holding of the promotion test in advance. The applicant deliberately chose not to attend the test despite availability of suitable and sufficient conveyance. In OA No. 462 of 2011, Mr. Ajith Kumar who is also from Byepore, had produced the passenger list of Bharath Seema sailed from Kochi on 23.4.2011 and the list contains the names of 335 passengers. The sailing capacity of the ship is 358 passengers. Thus, it could be seen that there was availability of tickets and the applicant's contention that there was no ticket available is wrong. The test was conducted in the Headquarters for good reasons. There had been complaints for lack of invigilation in conducting the test earlier and hence it was decided that under the close supervision of 3rd respondent the test will be conducted.



4. We have heard the parties. Similar OAs filed before this Tribunal was disposed of by Annexure A-13 judgment directing the official respondents that in the event of any necessity to send any further persons for training due to any of the persons already sent declared not qualified in the training, instead of sending the candidates from the qualified list, the applicants and similarly situated persons may be given a chance to participate in the promotion test and their performance ascertained and on the basis of seniority amongst the qualified candidates, requisite number of candidates may be sent for training. Accordingly, we are in full agreement with the judgment Annexure A-13.

5. In the circumstances the OA is disposed of in the same lines as Exhibit A-13. The official respondents are directed that in the event of any necessity to send any further persons for training due to any of the persons already sent declared not qualified in the training, instead of sending the candidates from the qualified list, the applicant and similarly situated persons may be given a chance to participate in the promotion test and their performance ascertained and on the basis of seniority amongst the qualified candidates, requisite number of candidates may be sent for training.

6. Original Application is thus disposed of as above.


(K. GEORGE JOSEPH)
ADMINISTRATIVE MEMBER


(JUSTICE P.R. RAMAN)
JUDICIAL MEMBER

“SA”