

CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O.A.No.532 of 1994

Friday this the 26th day of August, 1994

CORAM:

HON'BLE MR.JUSTICE CHETTUR SANKARAN NAIR, VICE CHAIRMAN

HON'BLE MR.S.KASIPANDIAN, ADMINISTRATIVE MEMBER

K.Pushkaran,
Son of Krishnan Kani,
Senior Clerk,
Central Tuber Crops,
Research Institute,
Sreekariam,
Thiruvananthapuram.

.... Applicant

(By Advocate Mr.P.S.Vasavan Pillai)

Vs.

1. Director, Central Tuber
Crops Research Institute,
Sreekariam,
Thiruvananthapuram - 695017

2. Administrative Officer,
Central Tuber Crops
Research Institute,
Sreekariam,
Thiruvananthapuram - 695017.

3. M.Purushothaman Potty,
Assistant,
Central Tuber Crops Research
Institute, Sreekariam,
Thiruvananthapuram - 695017.

.... Respondents

(By Advocate Mr.Jacob Varghese)

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ORDER

CHETTUR SANKARAN NAIR (J), VICE CHAIRMAN:

Applicant, who is a member of a Scheduled Tribe, challenges the appointment of 3rd respondent, who does not belong to a Scheduled Caste or a Scheduled Tribe. According to applicant, the vacancy in question occurs at the '4th point in the roster' and it must necessarily go to a member of a Scheduled Tribe, as long as an eligible member of that tribe is available. He submits that he is eligible. to be appointed.

2. In answer, respondents would say in paragraph 7 of their reply affidavit:

"the contention of the applicant that the vacancy was a reserved vacancy is not correct. It was an Unreserved vacancy..."

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3. Again, in the same strain, in paragraph 9 of reply affidavit it is stated:

"the vacancy against which 3rd respondent was promoted by Annexure A-I order was a single vacancy".

If matters stood at that, respondents would have had no difficulty. But an another statement in paragraph 9 of the reply affidavit, upsets the apple cart. It reads:

"even though that vacancy comes against the 4th point (Scheduled Tribe) in the roster, the same was treated as unreserved vacancy as per Govt. of India guidelines referred earlier..."

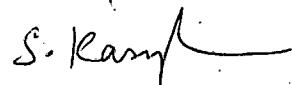
4. If it is a single vacancy, the contentions raised lose their relevance. It is not clear whether a reserved vacancy was de-reserved. There is only a broad reference to 'treating the vacancy as an unreserved vacancy'. We are not told by what process this was done. We do not think, we are required to pronounce finally on this question. First respondent will consider the matter afresh, and pass an order stating:

- (a) Whether the vacancy was a reserved vacancy?
- (b) If so, whether eligible candidates belonging to a Scheduled Tribe were available
- (c) If they were available, why they were not appointed
- (d) If they were not available, whether de-reservation had been made in accordance with the Rule.
- (e) If so, what are the provisions or orders, under which such de-reservation was affected.

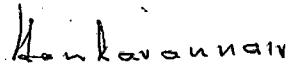
5. A detailed order will be passed stating the reasons for the conclusions and dealing with the aspects hereinbefore mentioned within three months from today and the same will be communicated to applicant.

6. The application is disposed of as aforesaid. No costs.

Dated the 26th August, 1994.



S.KASIPANDIAN
ADMINISTRATIVE MEMBER



CHETTUR SANKARAN NAIR(J)
VICE CHAIRMAN

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