

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

OA No.546/94

Wednesday, this the 16th day of August, 1995.

C O R A M

HON'BLE MR PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

HON'BLE MR P SURYAPRAKASAM, JUDICIAL MEMBER

....

MK Koya, HC No.60,  
Police Station, Kavaratti,  
Union Territory of Lakshadweep.

....Applicant

By Advocate Shri MV Thamban.

vs.

1. The Inspector General of Police,  
The Administrator, UT of Lakshadweep.
2. The Superintendent of Police,  
UT of Lakshadweep, Kavaratti.
3. K Narayanan, Circle Inspector,  
Androth, UT of Lakshadweep.
4. T Somasundaram, Sub Inspector of Police,  
Kavaratti, UT of Lakshadweep.
5. T Sadasivan, Sub Inspector of Police,  
Police Station, Air Port, Agatti,  
UT of Lakshadweep.
6. MK Narayanan Kutty, Asst Sub Inspector of Police,  
Minicoy, UT of Lakshadweep.
7. PP Sreedhara Kurup, Sub Inspector of Police,  
Kalpeni, UT of Lakshadweep.
8. M Bhaskaran, Sub Inspector of Police, (Vigilance),  
Kavaratti, UT of Lakshadweep.
9. MK Thankappan, Sub Inspector of Police,  
Special Branch, Lakshadweep Office,  
Wellington Island, Kochi.
10. MV Johny, Sub Inspector of Police,  
Agatti, UT of Lakshadweep.

....Respondents

The application having been heard on 11th August, 1995,  
the Tribunal delivered the following on 16th August, 1995:

contd.

O R D E R

PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

Applicant, a Scheduled Tribe Head Constable in the Police Department of Lakshadweep, alleges that he was wrongly superseded in 1967 for promotion as Head Constable (HC for short) and that the respondents had not correctly applied the principles of reservation in his case. He had approached the High Court of Kerala in OP 4211/82 in which a direction was given to the first respondent therein to dispose of his representation. Thereafter, applicant approached the Tribunal in OA 1771/91 and the Tribunal held that this grievance going back as it does to 1967, it was a cause long lost by limitation. The Tribunal, however, directed the respondents to consider the claim of applicant for promotion as on 18.11.91 and thereafter with specific reference to the question of reservation. The respondents thereupon issued AVIII dated 25.12.93, stating that there were five posts of Assistant Sub Inspector (ASI) of which two posts are held by Scheduled Tribe (ST for short) employees who are senior to applicant and that no vacancy of ASI has arisen from May, 1990 onwards. Applicant would, however, contend that there is a vacancy of Sub Inspector (SI for short) and if that vacancy is filled by promoting an ASI, he can be promoted in the resulting vacancy of ASI.

2. Respondents, however, state that the vacancy of SI was caused by the promotion of one Joseph James who is being retained as Inspector on the basis of directions of the Tribunal in OA 1879/93, that the said Joseph James is liable to be reverted if his claim is not allowed by the Tribunal and, therefore, the vacancy of SI cannot be filled up before the disposal of OA 1879/93. They further state that the 100-point roster is for recruitment on local and regional basis, that promotions are governed by a 40-point roster, that out of 16 posts of SIs, 50% is for promotion and for 8 posts, point 1, 8 are for Scheduled

contd.

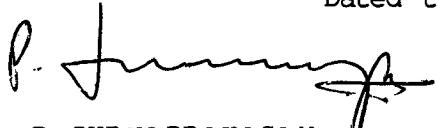
Caste (SC for short) and point 4 for ST, that the SC posts can go to ST if no suitable SC is available, that since no suitable SC/ST candidate was available at the time of promotion, one of these reserved points was filled by a general category candidate. Respondents further state that the number of direct recruits being below 50% of the number of posts, the vacancy in SI may have to be filled by direct recruitment, in which case there will be no consequential vacancy of ASI to which applicant can be promoted.

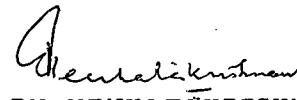
3. Applicant contends that the Recruitment Rules permit a HC to be promoted as SI, that if there was no suitable SC/ST ASI available, instead of promoting a general category candidate against the third reserved point, applicant could have been promoted from Head Constable to SI. This argument, though attractive, does not bear scrutiny since the Rules require that a HC should have ten years regular service to become eligible for promotion as SI. Applicant was promoted as HC on 15.8.75. The post reserved for SC which was filled by a general category candidate MK Thankappan is seen from A13 to have arisen on 12.8.83 on which date applicant did not have the requisite ten years of service to be eligible for promotion as SI.

4. The contentions of the applicant, therefore, fail. The fact remains, however, that applicant who became HC in 1975 is still HC twenty years later. His grievance that he has not been promoted as ASI is to be taken serious note of by the respondents. Respondents have stated in the impugned order that the promotion of applicant would be considered when vacancies arise. They shall do so.

5. Application is disposed of as aforesaid. No costs.

Dated the 16th August, 1995.

  
P. SURYAPRAKASAM  
JUDICIAL MEMBER

  
P. VENKATAKRISHNAN  
ADMINISTRATIVE MEMBER

List of Annexures

Annexure -VIII: A true copy of order F.No.1/5/92-Estt (POL)/  
2265 dt. 25.12.93 by 2nd respondent to  
applicant.

Annexure A13: True copy of the order of the 2nd respondent  
dt. 6.4.1990 No.F.No.1/12/87-Estt.(Pol)