

**Central Administrative Tribunal
Ernakulam Bench**

OA No.550/2013

Friday, this the 14th day of June, 2013.

C O R A M

HON'BLE DR.K.B.S.RAJAN, JUDICIAL MEMBER
HON'BLE MR.K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER

Muhammed Shaji E
Subah
Valiyaparambu Road
Keerthi Nagar
Elamakkara - 682 026.

Applicant

(By Advocate: Mr.K.N.Chandra Babu)

1. Union Public Service Commission
Dhopur House
Shahjehan Road
New Delhi-110 026
represented by its Secretary

2. The Chairman
Union Public Service Commission
Dholpur House
Shahjehan Road
New Delhi-110 026.

Respondents

(By Advocate: Mr.Thomas Mathew Nellimoottil)

This Original Application having been heard on 14th June, 2013, the Tribunal on the same day delivered the following:-

O R D E R

HON'BLE DR.K.B.S.RAJAN, JUDICIAL MEMBER

The applicant was an aspirant for appointment to the post of Engineer and Ship Surveyor-cum-Deputy Director General (Technical) in the Directorate General of Shipping, Ministry of Shipping. On his application for the said post in response to Notification No. 04/2012, the applicant was called for an interview scheduled on 10-01-2013. The applicant claims that he belongs to OBC and not being covered under the creamy layer and this fact has been certified by the Tahsildar, Kanayannur Taluk, Ernakulam District. According to him, he had filled up the online application and by oversight the category has been shown as

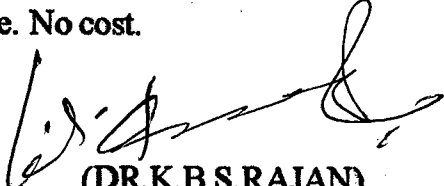
'General'. This inadvertent error was stated to have been brought to the knowledge of the Interview Board at the time of interview. At the time of verification of the documents, as the applicant had not been having the Certificate to prove that he belongs to OBC category, on his informing about the same, according to him, the UPSC opined that he is free to provide the details to the Commission and accordingly, he moved a representation vide Annexure A-5 dated 20-02-2013. The respondent No. 1 is stated to have published the select list of candidates for the post of Engineer & Ship Surveyor-cum-Deputy Director General (Technical) vide Annexure 6. The name of the applicant did not figure in the said list of 21 candidates of whom, 6 persons were from OBC category.

2. On 20-04-2013, the applicant had penned annexure A 7 representation and submitted the same before the second respondent requesting them to consider his candidature for filling the vacancy of Engineer & Ship Surveyor-cum-Deputy Director General (Technical) as he is eligible and two more vacancies are available. While no response was received, the applicant sought for certain information under RTI and the same had been provided by the UPSC. However, since his grievance has not yet been redressed, he has filed this OA praying for a direction to the respondents to consider the A-5 and A-7 representation pending before them.

3. When the case came up for admission, the Tribunal felt it appropriate that administrative remedy should first be exhausted whereafter only, judicial remedy could be pressed into service. Of course, in this case the prayer itself is to the extent of a direction to the respondents to consider and dispose of the representations pending before them. Since the respondents have not disposed of the representation of the applicant, interest of justice would be met, if the respondents are advised to consider the representations and dispose of the same within a period of two months. The applicant is at liberty to challenge the decision of the respondents, if the same adversely affects the applicant.

4. With the above observation, we close the case, making it very clear that no opinion has been expressed by us on the merit of the case. No cost.


(K. GEORGE JOSEPH)
ADMINISTRATIVE MEMBER


(DR. K. B. S. RAJAN)
JUDICIAL MEMBER