

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O. A. No. 556/91 199

DATE OF DECISION 30.4.93

T.V.Gopalan Applicant (s)

Mr.Vellayani Sundara Raju Advocate for the Applicant (s)

Versus

The Director, Integrated Fisheries Project, Cochin & 2 others. Respondent (s)

Mr.George C.P.Tharakan, SCGSC, Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. N.Dharmadan, Judicial Member

The Hon'ble Mr. R.Rangarajan, Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgement
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement
4. To be circulated to all Benches of the Tribunal?

JUDGEMENT

MR. N.DHARMADAN, JUDICIAL MEMBER

Applicant is a Member belonging to Scheduled Caste community. He joined the Integrated Fisheries Project, IFP for short, as Engine Room Assistant on 7.10.1966. He was promoted as Engineer Driver Class II on 7.8.1972 and Engine Driver Class I on 21.6.1980. As per order dated 29.9.1983 he was promoted as Chief Engineer Grade-II with effect from 1.9.83 in a retirement vacancy when Shri C.G.George retired from service. But he was reverted after 4½ years as per Annexure-A6 order dated 14.3.1988 in order to post one Shri V.K.Vichitran on promotion as Chief Engineer Grade-II. The grievance of the applicant is that he was denied promotion and posting as Chief Engineer Grade-II in a vacancy reserved for Scheduled Caste which arose earlier when he was qualified for promotion on regular basis.

2. According to the recruitment rules for various posts including the Chief Engineer Gr.II, Annexure-A2, which were in force at the relevant time when the applicant was qualified, the qualifications needed for promotion to the post of Chief Engineer Gr.II are as follows:-

"Name of Post Non-selection post	Whether select- ion or Non-se- lection post	Educational & other qualifi- cation reqd. for direct recruits.	Whether age & educati- onal qua- for direct recruits.	Method of rectt. whe- ther by di- rect rectt. or by promn.	In case of rectt. by promotion/ deptn. tra- lificati- or by nsfer, grades on pres- or by deptn. from which cribed for transfer & direct re-percentage of deptn. tra- cruits will the vacan- cies to be made- the case of filled by promotees- various methods
(1)	(5)	(7)	(8)	(10)	(11)
Chief Selection	i Ministry of Transport Certificate of competency as 1st Class or 2nd Class Engineer (Motors) OR Ministry of Transport Certificate	Essential	Age: No. 50% by promotion fail- Educational qualifi- cation which fication: by direct Yes. (as recruitment. at (i) in Col. 7)	Promotion Engine Dri- ver Cl. I & Eng. Dri- ver Cl. II with 8 years and 10 yrs.	Engine Dri- ver respective grades after appointment thereto on a regular basis. "

Under the Recruitment Rules, Annexure-A2, the applicant was qualified having satisfied all the requirements for promotion as Chief Engineer Grade-II on 1.9.1983. Subsequently, in 1985 Annexure-A2 recruitment rules were amended prescribing the following as essential qualifications:-

- "(i) Ministry of Transport certificate of Competency as 1st or 2nd Class Engineers (Motors) OR Certificate of competency as Engineer of Fishing Vessel.
- (ii) SSLC or equivalent or satisfactory completion of Engine Drivers course at CIFNET.
- (iii) 3 years practical experience on fishing vessels."

It is mentioned in Note 1 under Column No.8 that the qualifications are relaxable at the discretion of the UPSC. The

amendment has no retrospective effect. After the amendment of the Recruitment Rules the applicant was reverted from the post of Chief Engineer Grade-II which was challenged by him in OA 151/88. This Tribunal dismissed the case as per judgment dated 4.8.1989. A seniority list of Chief Engineers Grade-II was published by the 1st respondent in 1991. It is produced as Annexure-A5. The relevant portion of the same is extracted below:-

1	2	3	4	5	6	7
CHIEF ENGINEER No.of post : 5 Permanent : 4 Temp. 1 Scale of pay : 2375-3500						
1. Shri K.B.Sebastian	17.4.38	6.8.68	13.12.72	6.8.78		
2. Shri K.U.Askan	2.5.45	3.11.71	13.12.72	3.11.79		
3. Shri K.Viswambharan	31.12.46	10.10.76	20.3.81	—	Adhoc basis	
4. Shri C.J.Joseph	6.6.45	16.11.71	10.1.83 A.N.	—	—do—	
5. Shri V.K.Vidhitrani	22.9.46	4.12.75AN				

Applicant came ~~to~~ know from Annexure-A5 seniority list that all the five persons shown in the list were promoted without following the procedure in the Recruitment Rules, Annexure-A2, which was in force at the relevant time. No Scheduled Caste candidate was considered for regular promotion even though the applicant was qualified for promotion in the year 1982. The 1st respondent, according to the applicant, deliberately floated the prescribed norms provided in the Recruitment Rules for filling up the post of Chief Engineer Grade-II, Annexure-A2. Under the Recruitment Rules 50% of the vacancies are to be filled up by promotion and remaining 50% by direct recruitment. No direct recruitment was ever made ~~(A)~~ before the publication of Annexure-A5. One Shri C.J.Joseph was promoted as Chief Engineer on ad-hoc basis on 10.1.83. The applicant was promoted in the same manner as per Annexure-A4 order dated 29.9.83. But he was reverted on 14.3.88 as per Annexure-A6 for posting a promoted officer

Shri V.K.Vichithran. The applicant was fully qualified for regular promotion as Chief Engineer Grade-II under Annexure-A2. He ~~had~~ possessed a Certificate of Competency as Engine Driver of Motor Fishing Vessels issued by the Government of India No.FV(D) 1158 dated 2.10.1978 which is produced as Annexure-A8. The 1st respondent never attempted to implement the reservation policy on the basis of Annexure-A1 roster in the matter of promotion and appointment of Chief Engineer Grade-II. According to Annexure-A5 seniority list at present five persons are working as Chief Engineer Grade-II in the IFP. None of them belong to the SC or ST community. Though the applicant was qualified to be promoted as Chief Engineer Grade-II in 1982 and he was appointed on ad-hoc basis in 1983 the 1st respondent reverted him without giving a regular posting in the promoted post in one of the reserved vacancies. The applicant was also given Certificate of Dispensation under Section 76 of the Merchant Shipping Act, 1958 on two occasions, in 1984 and 1989. They are produced as Annexures-A9 and A9(a). The applicant also submitted Annexure-A10 representation for getting regular promotion and posting as Chief Engineer Grade-II in the 'back-log' reserved posts available in the IFP. Since the same has not been considered favourably the applicant approached this Tribunal for a direction to the respondents to promote him as Chief Engineer Grade-II in the IFP with effect from the ^{for} date when he became qualified and a posting in the back-log vacancy reserved for Scheduled Caste community.

3. The respondents have filed a reply and additional reply. The respondents have stated that as per the approved recruitment rules notified in 1976 (Annexure-A2) the posts of Chief Engineer Grade-II were to be filled up 50% by promotion failing which by direct recruitment and 50% by direct recruitment. The feeder category is Engine Driver

Class-I and Engineer Driver Class-II with eight years and ten years service in the respective grades after appointment thereto on regular basis. The applicant became qualified for appointment as Chief Engineer Grade-II on 7.8.1982 as he was appointed as Engineer Driver Class-II on 7.8.1972. He was given an ad-hoc promotion as Chief Engineer Grade-II with effect from 1.9.83 due to retirement of the incumbent. The vacancy in which the applicant was posted as Chief Engineer Grade-II was a carry forward vacancy arose in the year 1983. The applicant was promoted in that year and posted in the vacancy in terms of the direction in the brochure on reservation. Since the applicant does not possess the essential qualification required for the post as per the amended recruitment rules he was later reverted. The respondents did not give any specific reply regarding the contention that the 1st respondent failed to observe the principle of reservation in the matter of promotion of Chief Engineer Grade-II till ~~the~~ publication/^{of seniority list} in the year 1991. The applicant filed O.A.151/88 before the Tribunal challenging Annexure-A6 order raising similar grounds. This Tribunal after hearing the parties dismissed the O.A. holding that since the vacancy to which the applicant was promoted was in the direct recruitment quota and Shri V.K. Vichithran is possessed with the competency certificate had a better claim to be appointed as Chief Engineer Grade-II on ad-hoc basis. In the light of the above decision of this Tribunal this original application is liable to be dismissed. The applicant filed rejoinder and additional rejoinder denying the statements in the reply and additional reply.

4. There is no dispute by the respondents regarding the application of reservation principles in the IFP while making appointments/promotion to the post of Chief Engineer Grade-II. The applicant, being a member of Scheduled Caste community and eligible to be appointed as Chief engineer Grade-II from 7.8.1982, ought to have been considered for regular absorption in a vacancy earmarked for SC community. Out of the five appointments already made to the post of Chief Engineer Grade-II till 1983 at least one should have been earmarked for SC community. In fact it is admitted in the reply statement filed by the respondents that the applicant was provisionally promoted and appointed as Chief Engineer Grade-II with effect from 1.9.83 in a carry forward vacancy as per the brochure for reservation but he has been reverted in the year 1988 as per Annexure-A6 for posting Shri V.K.Vichithran, a non-scheduled caste candidate, on the ground that he is a competent engineer who has better qualification. The respondents have no case that the applicant is not qualified for promotion in the light of the recruitment rules notified in 1976, Annexure-A2, which was in force at the relevant time. This was amended only in 1985 as per Annexure-A3. Admittedly, the amendment has no retrospective effect. Vacancies of Chief Engineer Grade-II existed in 1983 and the applicant was provisionally appointed in the vacancy treating the vacancy as reserved one carried forward for being filled up with a reserved candidate in the year 1983. The respondents ought to have regularised the applicant as Chief Engineer Grade-II and allowed him to continue in that post since there was no other competing SC candidate to get a promotion/posting as Chief Engineer Grade-II in the IFP, till the publication of Annexure-A5 seniority list. The learned counsel for the applicant submitted that the qualification for a post should be decided on the basis of the recruitment rules in force at the time of the existence of the vacancy. He further submitted that Annexure-A2

recruitment rules which were in force at the time when the vacancy of Chief Engineer Grade-II arose and the applicant was considered for ad-hoc promotion and since he was fully qualified under the said recruitment rules, his right for promotion as Chief Engineer Grade-II should have been decided by the respondents in the light of Annexure-A2. Annexure-A3 amendment was brought ^{force} ~~in~~ only in 1985 and the same has no application to the case of the applicant for it has no retrospective effect.

5. This Tribunal in OA 528/89 considered a more or less similar issue and held in T.M.Paul & others vs. Union of India & Others, as follows:-

"9. The matter is covered by the latest decision of the Supreme Court reported in P.Mahendran and others vs. State of Karnataka and others, AIR 1990 SC 405 in which a more or less similar question was considered by the Supreme Court on a different circumstance and held that the selection process which was started on the basis of the existing rules and procedure can be continued and completed accordingly under that rules notwithstanding the subsequent amendment of the rules changing the procedure for selection provided there is an accrued right in favour of the candidates. The observation in the judgment reads as follows:-

'5. It is well settled rules of construction that every statute or statutory Rule is prospective unless it is expressly or by necessary implication made to have retrospective effect. Unless there are words in the statute or in the Rules showing the intention to affect existing rights the Rule must be held to be prospective. If a Rule is expressed in language which is fairly capable of either interpretation it ought to be construed as prospective only. In the absence of any express provision or necessary intendment the rule cannot be given retrospective effect except in matter of procedure. The amending Rule of 1987 does not contain any express provision giving the amendment retrospective effect nor there is anything therein showing the necessary intendment for enforcing the Rule with retrospective effect. Since the amending Rule was not retrospective, it could not adversely affect the right of those candidates who were qualified for selection and appointment on the date they applied for the post, moreover as the process of selection had already commenced when the amending Rule came into force. The amended Rule could not affect the existing rights of those candidates who were being considered for selection as they possessed the requisite qualifications prescribed by the Rule before its amendment moreover construction of amending Rules should be made in a reasonable manner to avoid unnecessary hardship to those who have no control over the subject matters.' "

6. The learned counsel for the respondents strenuously contended that this O.A. is to be dismissed in the light of the earlier judgment in OA 151/88 filed by the applicant challenging Annexure-A6 reversion order. We have gone through the judgment. That application was filed on 16.3.88 challenging the order dated 14.3.88 reverting the applicant from the post of Chief Engineer Grade-II to that of Engine while he was continuing in that post on ad-hoc basis. Driver Class-I. He also prayed for a declaration that he should be allowed to continue as Chief Engineer Grade-II as having been regularly promoted with effect from 1.9.1983. Applicant's claim was opposed by the respondents stating that the was promoted as Chief Engineer Grade-II on an adhoc basis on 1.9.83 against a direct recruitment quota vacancy. Having heard the counsel on both sides this Tribunal has taken the view that since the applicant is not possessed with the competency certificate for handling bigger fishing vessels and whereas the 2nd respondent therein, Shri V.K.Vichithran who has been promoted and posted in his place was possessed with the competency certificate he has got a better claim than the applicant to be appointed as Chief Engineer Grade-II on ad-hoc basis in the direct recruitment quota and dismissed the O.A.

7. The respondents had not correctly stated ~~full~~ facts before the Tribunal while disposing of the original application 151/88. The fact that the applicant was fully eligible under the existing recruitment rules, Annexure-A2, was not disclosed. Further the post to which the applicant was provisionally promoted and appointed in the year 1983 was a carried forward vacany maintained in the year 1983 for filling on the basis of reservation was also not disclosed. However, in that judgment the only question decided was the superior claim of Shri Vichithran to get promotion as Chief Engineer Grade-II on ad-hoc basis and not on regular basis. Hence the judgment in OA 151/88 does

not debar us from considering the claim of the applicant based on the cause of action which arose in the year 1991 when Annexure-A5 seniority list of Chief Engineers Grade-II was published, for getting a regular promotion in the carried forward vacancy as submitted by the respondents in the reply. The right of the applicant for getting regular promotion as Chief Engineer Grade-II was never considered and decided by this Tribunal in the earlier case. Hence, we are of the view that judgment in OA 151/88 is no bar for consideration of the claim of the applicant in this case.

8. Admittedly, the respondents are bound to follow the reservation roster as contained in Annexure-A1 in the matter of appointment/promotion as Chief Engineer Grade-II. From 1972 to 1983 five appointments have been made as Chief Engineer Grade-II but not a single SC or ST candidate has been considered for appointment/promotion to the post of Chief Engineer Grade-II. This is a default and failure on the part of the respondents. It causes injustice to the applicant. In fact the applicant was qualified from 1982 onwards to be considered for promotion as Chief Engineer Grade-II. Admittedly, a carried forward vacancy arose in 1983 and the applicant was promoted and appointed to that post as per Annexure-A4 with effect from 1.9.83. But he has been reverted by a subsequent order, Annexure-A6 dated 14.3.88, only to promote a non-SC candidate, Shri Vichithran. These facts were suppressed by the respondents when the earlier case was filed by the applicant. However, all the observations and findings in that judgment pertains only with reference to the adhoc promotion of the applicant, they do not operate as resjudicata against the applicant.

9. So long as a SC candidate fully qualified was available, there is no reason or justification to deny the applicant the benefit of continuing as Chief Engineer Grade-II, particularly when he was found suitable under the recruitment rules which were in force at the time when that post became vacant for being filled up with a SC candidate on regular basis. The respondents did not give any reason for their failure to convene a DPC and consider the

applicant for a regular promotion. They should have convened a DPC in the year 1983 itself for considering the claim of the applicant for a regular posting as Chief Engineer Grade-II. Simply because the earlier OA filed by the applicant was dismissed, the applicant's right to get regular promotion in the SC vacancy is not lost. In this view of the matter, according to us, the judgment in OA 151/88 would not debar the respondents from considering the applicant for regular promotion to the post of Chief Engineer Grade-II particularly when the applicant is fully qualified under the Annexure-A2 recruitment rules and a vacancy reserved for SC was existing in that year. Under these circumstances, the contention of the respondents that this OA is to be dismissed in the light of judgment in OA 151/88 is only to be rejected and we do so.

10. Having considered the matter in detail, we are of the view that the applicant is entitled to get a posting as Chief Engineer Grade-II following the reservation roster. In the result, we allow the application and direct the 1st respondent to convene a DPC for considering the right of the applicant for a regular promotion as Chief Engineer Grade-II with effect from the date from which he is qualified in view of the fact that a carried forward vacancy for being filled up with an SC candidate was in existence from 1983 onwards. This shall be done notwithstanding the fact that the applicant has been reverted as per Annexure-A6 reversion order from his ad-hoc promotion as Chief Engineer Grade-II. If the applicant is found to be qualified for promotion he shall be promoted as Chief Engineer Grade-II on a notional basis from the date of occurrence of the vacancy with all consequential benefits.

194
(R.RANGARAJAN)
ADMINISTRATIVE MEMBER

30.4.93.
(N.DHARMADAN)
JUDICIAL MEMBER

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH
ERNAKULAM

Dated Friday the fourth day of August, one thousand nine hundred eighty nine.

PRESENT

Hon'ble Shri P.K. Kartha, Vice Chairman
&
Hon'ble Shri S.P. Mukerji, Vice Chairman

ORIGINAL APPLICATION NO.K.151/88

T.V. Gopalan .. Applicant

V.

i. The Director, Integrated Fisheries Project, Cochin-16.

ii. B.K. Vichitran, Engine Driver Class I, Integrated Fisheries Project, Cochin-16.

.. Respondents

Counsel for the applicant .. M/s KK Usha,
N.S.Aravindakshan.

Counsel for the respondents. ... Mr. P.S.Biju,
ACGSC(for R.1)
Mr. R.Raghukumar
(for R.2)

O R D E R

Shri S.P. Mukerji, Vice Chairman

In this application dated 16-3-1988 filed under Section 19 of the Administrative Tribunals Act, the applicant who is a member of the Scheduled Caste and has been working as Chief Engineer-Grade II in the Integrated Fisheries Project has prayed that the order dated 14.3.1988 (Annexure-3) reverting him from the post of Chief Engineer Grade II to that of Engine Driver should be set aside as illegal and arbitrary and that he should be continued as Chief Engineer Grade II. He

has also prayed that he should be declared to have been regularly promoted as Chief Engineer Grade II with effect from 1.9.83 and not liable to be reverted in order to accommodate the second respondent who has been promoted in his place.

2. The brief facts of the case are as follows.

The applicant was appointed as Engine Room Assistant on 7.10.1966, was promoted as Engine Driver Class II on 7.8.72 and as Engine Driver Class I on 21.6.1980. He was promoted as Chief Engineer Grade II on an adhoc basis on 1.9.83 against a direct recruitment quota vacancy. The applicant does not have the Ministry of Transport certificate of competency as first or second class Engineers or certificate of competency as Engineer to be essential of Fishing Vessels, as prescribed in the Recruitment Rules notified on 17th February, 1984. When respondent No.2 became available with the said certificate, he was promoted by reverting the applicant who was even otherwise junior to the second respondent. According to the applicant the Recruitment Rules for the post of Chief Engineer was amended in 1985 which provided that the qualification regarding experience is relaxable for Scheduled Castes and Scheduled Tribe candidates at the

discretion of the U.P.S.C. if the Commission thinks that sufficient number of Scheduled Caste/Scheduled Tribe candidates with requisite experience are not available. The applicant lays claim to one of the five posts of Chief Engineers on the ground that he is the only Scheduled Caste official holding the post. He has also argued that the second respondent was promoted on 1.9.83 when he did not complete 8 years of service prescribed for such promotion.

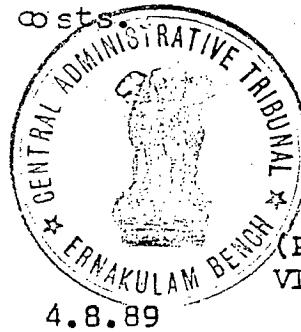
3. According to the respondents the applicant does not possess the competency certificate while the second respondent possesses the certificate and the applicant being the juniormost Chief Engineer had to be reverted.

4. We have heard the arguments of the learned counsel for both the parties and have gone through the documents carefully. Since the second respondent was promoted as Engine Driver-I on 4.12.75 while the applicant was promoted as such on 21.6.1980, the respondent No. 2 is senior to the applicant in that grade. Both of them were promoted as Chief Engineer Grade II on 1.9.83. The applicant did not have the competency certificate for handling bigger fishing vessels whereas respondent No. 2 had that certificate. The applicant has continued as Chief Engineer-II by getting a dispensation certificate

for a short period till such time as no qualified candidate was available. Since respondent No.2 had the competency certificate, he had to be promoted as Chief Engineer Grade II by reverting the applicant. It is true that the Recruitment Rules for promotion does not provide for competency certificate, but since the vacancy to which the applicant was promoted was in the direct recruitment quota, respondent No.2 who had the competency certificate had a better claim than the applicant to be appointed as Chief Engineer on an ad hoc basis.

5. In the facts and circumstances we see no merit in the application and reject the same. There will be no order as to costs.

Sd/-
(S.P. MUKERJI)
VICE CHAIRMAN



Sd/-
(P.K. KARTHA)
VICE CHAIRMAN

Sn. Dated 11-8-89

TRUE COPY

Deputy Registrar

Chet
17/8/89

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

CPC 105/94 in OA 556/91.

Wednesday, this the 8th day of June, 1994

C O R A M

HON'BLE MR JUSTICE CHETTUR SANKARAN NAIR, VICE CHAIRMAN
HON'BLE MR PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

....

TV Gopalan,
Chief Engineer Grade II (Adhoc),
Integrated Fisheries Project,
Cochin-16.

....Petitioner

By Advocate Shri Vellayani Sundara Raju.

Vs.

MK Ravindran Nair,
Director,
Integrated Fisheries Project,
Cochin-16.

....Respondent

By Shri C Kochunni Nair, Sr Central Govt Standing Counsel

O R D E R

CHETTUR SANKARAN NAIR (J), VICE CHAIRMAN

Petitioner complains of disobedience of the directions of this Tribunal in OA 556/91 dated 30.4.1993. The Tribunal directed:

"....1st respondent to convene a DPC for considering the right of the applicant for a regular promotion as Chief Engineer Grade II with effect from the date from which he is qualified in view of the fact that a carried forward vacancy for being filled up with an SC candidate was in existence from 1983 onwards."

2. Respondents passed an order notionally promoting applicant with effect from 14.3.1988 with certain consequential benefits, but without arrears of pay. According to petitioner, this is disobedience of the orders of this Tribunal. We do not find our way to agree with the contentions that there was willful disobedience of the orders. There is substantial compliance. The Tribunal did not specify the date nor

contd.

the details of the benefits. If applicant is not satisfied with what he obtained, he may seek reliefs in appropriate proceedings. There is no contempt involved, and we see no reason to entertain the petition or issue notice.

3. Petition is dismissed. No costs.

Dated the 8th June, 1994.


P. V. VENKATAKRISHNAN

ADMINISTRATIVE MEMBER



CHETTUR SANKARAN NAIR (J)
VICE CHAIRMAN

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

CP(C) No.247/93 in OA 556/91.

Thursday, this the 13th day of January, 1994.

C O R A M

HON'BLE MR JUSTICE CHETTUR SANKARAN NAIR, VICE CHAIRMAN
HON'BLE MR PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

....

TV Gopalan,
Engine Driver Class I,
Integrated Fisheries Project,
Cochin--16.

....Petitioner

By Advocate Shri Vellayani Sundara Raju.

Vs.

Shri MK Raveendran Nair,
Director,
Integrated Fisheries Project,
Cochin.

....Respondent

By Shri K Karthikeya Panicker, Addl Central Govt Standing Counsel.

O R D E R

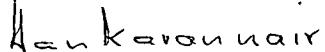
CHETTUR SANKARAN NAIR (J), VICE CHAIRMAN

Petitioner submits that the directions in OA 556/91 have not been complied with. Today, we granted two months' time for complying with the directions, by orders in a Miscellaneous Application. That apart, learned Standing Counsel submits that a Departmental Promotion Committee will be convened, and that the case of applicant will be considered, if necessary by creating a supernumerary post.

2. We record the submission, and dismiss the petition.
No costs.

Dated the 13th January, 1994.


PV VENKATAKRISHNAN
ADMINISTRATIVE MEMBER


CHETTUR SANKARAN NAIR (J)
VICE CHAIRMAN

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

R.A.NO. 68/93 in O.A.No.556/91

DATE OF DECISION : 8.7.93

1. Director, Integrated Fisheries Project, Cochin - 16.
2. Govt. of India represented by Secretary, Ministry of Agriculture, New Delhi. .. Review Applicants

Mr. George C.P.Tharakan .. Adv. for applicants
V/s

T.V.Gopalan, Engine Driver Class-I, Integrated Fisheries Project, Cochin - 16. .. Respondent

CORAM:

The Hon'ble Mr. N.Dharmadan, Judicial Member

The Hon'ble Mr. R.Rangarajan, Administrative Member

JUDGEMENT

MR. N.DHARMADAN, JUDICIAL MEMBER

This R.A. filed by the respondents in the O.A. No. 556/91 can be disposed of on circulation.

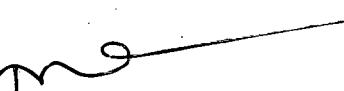
2. According to the review petitioners, Annexure-RA(2) judgment in OA 151/88 concludes the right of the applicant and the directions in the judgment cannot be implemented "in view of the changed circumstances" and provisions of the Merchant Shipping Act, 1958.
3. We have gone through the judgment in OA 151/88 and after a careful consideration we found that the questions

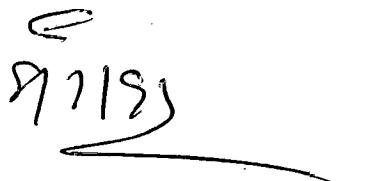
arising in this case were not specifically considered in OA 151/88. We have discussed the judgment in OA 151/88, in detail in paras 6, 7 & 8 of our judgment in this case passed on 30.4.93.

4. We have also considered the restrictions and application of the provisions of the Merchant Shipping Act and held that the applicant was found suitable under the Recruitment Rules for the post, Annexure-A2. The respondents have no case that the applicant is not qualified for the promotion under the Recruitment Rules.

5. We have only disposed of the application with the observation that the applicant is entitled to get a posting as Chief Engineer Grade-II following reservation roster. We see no error or other mistake in the judgment warranting a review and rehearing of the matter as stated in the R.A.

6. Accordingly, we dismiss the R.A. No order as to costs.


(R. RANGARAJAN)
ADMINISTRATIVE MEMBER


97/83


(N. DHARMADAN)
JUDICIAL MEMBER
8.7.93

v/-