

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A.No.564/92

Thursday, this the 18th day of November, 1993.

SHRI N DHARMADAN, JUDICIAL MEMBER  
AND  
SHRI S KASIPANDIAN, ADMINISTRATIVE MEMBER

1. All India MES(Civilian Draughtsman Association Cochin Zonal Branch represented by TRS Felex, Secretary.
2. TA Krishnan, Sr. D/Man, C/o Garrison Engineer, Cochin-4.
3. P Yesodhara Panicker, Sr.D/man, C/o Chief Engineer Cochin Zone, Cochin-4.
4. R Vincent Pallath, Sr.D/man, C/o Commander Works Engineer, Cochin-4.
5. M Gopalakrishna Pillai, Sr.DMan, C/o Garrison Engineer No.1 NW Cochin-4.
6. N Prabhakaran, Sr.D/man, C/o Chief Engineer Cochin Zone, Cochin-4.
7. EI Raghavan, Sr.D/man, C/o Chief Engineer Cochin Zone, Cochin-4. - Applicants

By Advocate Shri R Krishnan Nair

Vs.

1. Union of India represented by the Secretary, Ministry of Defence, New Delhi.
2. Engineer-in-Chief, Kashmir House, Army Hedquarters, DHQ PO, New Delhi-110 001.
3. Chief Engineer, Southern Command, Pune-411 001.
4. Chief Engineer Cochin Zone, Cochin-682 004. - Respondents

By Advocate Shri George CP Tharakan, SCGSC

O R D E R

N DHARMADAN, JUDICIAL MEMBER

The first applicant is an Association "All India MES Civilian Draughtsman Association" and applicants 2 to 7 are Senior D/mans working under the 4th respondent. They are aggrieved by Annexure-A1 recruitment rule issued in the year 1990 insisting educational qualification of Degree

or equivalent Diploma in Architecture from a recognised University/Institute for promotion to the post of Chief D/man. According to them under the existing rule Annexure-B2, there was no such essential educational qualification for appointment and promotion as stated in Annexure-A1. They further submitted that if a Degree or equivalent Diploma is to be insisted for promotion, it should have been prescribed at the entry point and it cannot be now prescribed for promotion to the cadre of Chief D/man. The applicants having worked for about 30 years if such an educational qualification as prescribed in Annexure-A1 is insisted for promotion, that will cause stagnation and injustice. They also submitted that they were not given sufficient time or opportunity to acquire such qualification for getting further promotion.

2. The learned counsel for the applicants on the basis of reliable information submitted that there is a proposal for amending the Annexure-A1 rule giving relaxation in respect of educational qualification in so far as the officers now working in the category of Senior D/man for getting promotion. According to him, in column 9 of Annexure-A1 rule, there is a typographical error which requires correction/clarification and the applicants are proposing to take up the matter with the Government in the light of subsequent communications. In the light of the above proposal, the applicants are prepared to file a joint representation before the first respondent for getting relief as to whether the educational qualification should be insisted or not in the case of Senior D/Man now working in the department for further promotion as Chief D/man.

3. The learned counsel for respondents submitted that the validity of this Annexure-A1 recruitment rule came up for consideration before the Madras Bench of the Central

Administrative Tribunal in OA-339/92 and connected cases, but the Tribunal did not accept the challenge. The cases were disposed of making it clear that all promotions to the post of Chief D/man to vacancies as on 6.4.1990 shall be made in accordance with the recruitment rules which existed at the relevant time SRO 309/71 and "no. promotion shall be ordered following the new Recruitment Rules SRO 78/90 from the seniority list published on 17.2.92 until the action as in (i) and (h) above is completed." He further submitted that the OA can be disposed of following the judgement of the Madras Bench.

4. The learned counsel for applicant submitted that the questions now raised by the applicant in this OA have not been placed for consideration before the Madras Bench of the CAT. Hence that judgement does not cover the issue raised in the instant case.

5. Since the applicants wish to make representation before the first respondent for getting relief, it is not necessary for us to go into the merits and decide whether the judgement of Madras Bench applies to this case or not. We are not examining the contentions raised in this case.

6. Having considered the request made by the learned counsel for applicants, we are satisfied that the OA can be disposed of with appropriate directions. Accordingly, we direct the applicants to file a joint representation before the first respondent raising all their grievances. This shall be done within two weeks from the date of receipt of a copy of this judgement. If such a representation is received, it shall be disposed of by the first respondent in accordance with law as expeditiously as possible without any delay. We make it clear that the interim order passed on <sup>24.4.92</sup> ~~24.9.1992~~ shall continue with the modification that the respondents shall have the freedom to fill up all the vacancies which arose before 6.4.1990

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in terms of the judgement of Madras Bench which is produced as Annexure-R1 in the OA.

7. The OA is disposed of as above. No costs.

*S. Kasipandian*

(S KASIPANDIAN)  
ADMINISTRATIVE MEMBER

*N. Dharmadan*  
18.11.23

(N DHARMADAN)  
JUDICIAL MEMBER

TRS