

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 566

1991

DATE OF DECISION 31.8.92

P.K.Viswanathan _____ Applicant (s)

Mr. M.C.Cherian _____ Advocate for the Applicant (s)

Versus

Director, CIFNET & another _____ Respondent (s)

Mr. C.Kochunni Nair, ACGSC _____ Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. P.S.Habeeb Mohamed, Administrative Member

The Hon'ble Mr. A.V.Haridasan, Judicial 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

P.S.Habeeb Mohamed, AM

In this application, Shri P.K.Viswanathan, Mate, CIFNET, has prayed for issue of directions by the Tribunal directing the respondents to pay officiating salary and allowances in accordance with the scale of pay applicable to the posts of "Mate" and Skipper, during the period he has officiated in the said posts and to pay interest on the arrears of salary due from the due date and for other incidental reliefs. His case is that though for his officiation as Skipper from 11.2.86 to 28.2.86 and as Mate from 4.3.86 to 31.3.86 he was given special pay for the posts, when he was made to officiate more or less continuously from 6.5.86 to 29.6.89, he has not been paid the salary for the officiating

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service after 5.5.86 for the periods from 5.5.86 to 16.9.86 as Skipper and from 17.9.86 to 31.12.86 as Mate. His repeated representations have not borne any result. His case is supported by the judgement of this Tribunal in OA 408/89 dated 31.5.90.

2. The respondents' case, as per their counter affidavit, is that the educational qualifications required for the post of Mate and Skipper are as follows:

	<u>By Direct Recruitment</u>	<u>By promotion</u>
1. Mate:	<u>Essential</u>	
	(i) Skipper Certificate for Fishing Vessel issued by MMD or equivalent.	Bosun (certified) with 5 years' regular service in the grade with qualification as at (i) for direct recruitment.
	(ii) One year's experience as Mate of Fishing Vessel or 3 years' experience as Bosun (certified)	
2. Skipper:	(i) Skipper certificate for Fishing Vessel issued by the MMD or equivalent.	Mate with 7 years' regular service in the grade failing which Mate with 12 years' combined regular service in the grades of Mate and Bosun (certified) with qualification as at (i) to (iii) required for direct recruitment.
	(ii) Matriculation/ SSLC/SSC 10th Std. in 10+2 system or equivalent Exam. OR successful completion of institutional training as Fishing Secondhand in EIFNET.	
	(iii) 5 years' practical experience on fishing vessel.	

The applicant possessed only the following qualifications:

- (i) SSLC failed
- (ii) Gear Technician Course in CIFNET
- (iii) Certificate of Competency as Secondhand (Fishing Vessel) Exam. passed on 3.6.77.
- (iv) Certificate of competency as Skipper (Fishing) Exam passed on 13.6.85.

Since he did not fulfil the qualifications required, he has not been paid higher salary. Therefore, while the respondents had cleared his case subsequently for salary arrears as Mate by order dated 2.7.91 (Annexure R5), since he did not possess the required qualification for Skipper post, he has not been given the salary as prayed for.

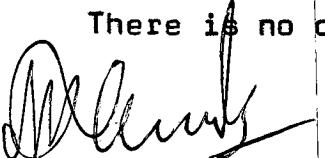
3. The learned counsel for the applicant and the respondents argued the case on the basis of the stands taken in the application and the counter. We are satisfied that the appointment orders as Skipper did not lay down any restriction that he would only be getting certain allowances and not the pay scale of the post. Having issued the appointment order for officiating as Skipper, the respondents cannot now raise the question of the required qualifications for the post and the failure of the applicant to conform to the requirements of the post. If such a stipulation was there in the order of officiating appointment then the case should have been different. Since we do not see any such restriction, the applicant is entitled to succeed in respect of the relief prayed for the period he officiated as Skipper. The claim of the applicant for pay in the scale of Mate for his officiation as Mate has already been

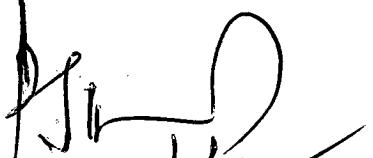


granted to him by the respondents in Annexure R5 order.

4. In the result, the application is disposed of with a direction to the respondents to pay to the applicant the difference between the pay and allowances in the scale applicable to the post of Skipper and what was already paid to him for the period for which he has officiated as Skipper within a period of one month from the date of receipt of a copy of this order. No interest need be paid.

5. There is no order as to costs.


(AV HARIODASAN)
JUDICIAL MEMBER


(PS HABEEB MOHAMED)
ADMINISTRATIVE MEMBER
31/8/92

31.8.1992