

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.573/11

~~Thursday~~ this the 16th day of August 2012

C O R A M :

HON'BLE Mr.JUSTICE P.R.RAMAN, JUDICIAL MEMBER
HON'BLE Mr.K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER

P.Azhar,
S/o.Munaff Pathummathiode,
Working as General Purpose Crew,
O/o.Port Assistant, U.T. of Lakshadweep,
Chetlat Island – 682 554.

...Applicant

(By Advocate Mr.N.Unnikrishnan)

Versus

1. Union of India
represented by the Secretary to the Government of India,
Ministry of Personnel and Public Grievances,
Department of Personnel and Training,
New Delhi – 110 001.
2. The Administrator,
Union Territory of Lakshadweep,
Kavaratti – 682 555.
3. The Secretary,
Fort Shipping & Aviation Department,
Union Territory of Lakshadweep, Kavaratti – 682 555.
4. The Director,
Port, Shipping and Aviation,
Union Territory of Lakshadweep, Kavaratti – 682 555.
5. The Port Assistant,
Port, Shipping & Aviation Department,
Union Territory of Lakshadweep,
Chetlat Island – 682 554.

...Respondents

(By Advocates Mr.Varghese P Thomas,ACGSC [R1]
& Mr.S.Radhakrishnan [R2-5])

This application having been heard on 7th August 2012 this Tribunal
on 16th August 2012 delivered the following :-



ORDER**HON'BLE Mr.K GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

The applicant was appointed as Lascar under the Port Department, Lakshadweep Administration vide order dated 27.3.1984. He was granted financial upgradation under the ACP Scheme with effect from 9.8.1999. He was promoted as Deck Crew vide order dated 14.8.2000. He was promoted as General Purpose Crew on 13.2.2007. He has been granted second financial upgradation under the MACP Scheme to the grade pay of Rs.2000/- in the pay band of Rs.5200-20200/- with effect from 1.9.2008. He has represented to the Secretary, Port Shipping and Aviation, Union Territory of Lakshadweep and Director, Port Shipping and Aviation, Union Territory of Lakshadweep vide Annexure A-19 and Annexure A-20 letters both dated 6.6.2011 for promotion to the post of Serang. He has filed this Original Application on 27.6.2011 seeking the following reliefs :-

1. Call for the records leading to the denial of promotion to the post of Serang to the applicant.
2. Declare that the applicant is entitled to be promoted as Serang without further loss of time.
3. Issue appropriate order or direction to the respondents to issue necessary orders granting promotion to the applicant as Serang within a reasonable time.
4. Issue appropriate order or direction to respondents Nos.2 to 4 to consider and pass orders on Annexure A-19 and Annexure A-20 within a reasonable time.
5. To grant such other reliefs as this Hon'ble Tribunal may deem fit, just and necessary.
6. To grant the cost of this Original Application.



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2. The applicant contended that he is fully qualified to be promoted as Serang as per Annexure A-9 Recruitment Rules. He has been working as Serang and equal categories from 1998 against regular vacancy in Tug M.T.Ammu. According to the applicant, the 3rd respondent is taking steps to promote IIF Crew, similar category of General Purpose Crew to the post of Serang thereby denying the legitimate expectation of promotion to him to the post of Serang.

3. The respondents in their reply statement submitted that there are 15 Motorised Tugs of 14-20 meters used as pax-boats maintained under the Department for which only 6 posts of Serang were created. The other remaining Tugs/pax-boats under the Department are being managed with existing incumbents working in the grade of Tindel, Boat Driver or General Purpose Crew who are found to be able and willing to execute the assigned works. The applicant while working as Deck Crew and holding the charge of a Tug M.T.Ammu stationed at Chetlat cannot claim any out of turn promotion to the post of Serang, as a matter of right, by ignoring other senior and qualified incumbents working in the immediate feeder grade posts in violation of the provisions of relevant Recruitment Rules. Now the post of General Purpose Crew is identified as one of the feeder post in terms of revised Recruitment Rules in Annexure A-9 which replaces the Recruitment Rules of 1986 and 1989 consequent upon the implementation of the 6th CPC Report and also based on functional requirements. The case of the applicant for promotion to the post of Serang reflected in schedule V of the Recruitment Rules will be considered along with other



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eligible incumbents strictly based on the inter-se seniority subject to passing the prescribed trade test and also based on their fitness. As per the combined inter-se seniority a total strength of 72 incumbents are available in the categories of posts, namely, Tindell/Boat Driver/IIF Crew/GP Crew/Engine Crew Gr.A/Secunny etc. reflected under Schedule VII of Annexure A-9 Recruitment Rules. The applicant is junior to those incumbents promoted or appointed to these grades during the year 1992 and incumbents at Sl.No.1 to 11 of the inter-se seniority list are to be considered against the 11 vacancies now available for promotion during the year 2011. The applicant does not have the required prescribed minimum period of 8 years of service in his present post of General Purpose Crew.

4. We have heard Shri.N.Unnikrishnan, counsel for the applicant and Ms.Saritha on behalf of Shri.S.Radhakrishnan, counsel for the respondents No.2-5 and perused the records.

5. Every employee has got a legitimate expectation for promotion. No employee has got a right to promotion but a right to consideration for promotion as per rules. The applicant claims that he has got 27 years of service and is working as in-charge Serang against a regular vacancy in Tug M.T.Ammu. He has represented vide letters dated 6.6.2011 to the Secretary and Director in the Department of Port, Shipping and Aviation under the Lakshadweep Administration. It is only fair and reasonable that his representation be considered and suitable reply is given to him as early



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as possible. The respondents have submitted that there is a combined inter-se seniority list consisting of 72 incumbents in the categories of posts, namely, Tindell/Boat Driver/IIF Crew/GP Crew/Engine Crew Gr.A/Secunny etc. It is not clear whether the said seniority list is published and whether the applicant is aware of his position in the seniority list. It would be in the interest of justice and transparency in administration to publish the inter-se seniority, if it is not already published and give an opportunity to represent against it and consider objections, if any, from the incumbents concerned.

6. In the conspectus of facts and circumstances and issues involved in this O.A, we are of the considered view that whether the applicant is entitled to be promoted as Serang or not is to be decided, in the first instance, by the respondents as per rules. If the applicant is aggrieved he can challenge the decision of the competent authority. However, the O.A can be allowed partly by directing the respondent No.3 to consider and dispose of the letters dated 6.6.2011 (Annexure A-19 and Annexure A-20) by a speaking order within a period of three months from the date of receipt of a copy of this order. Ordered accordingly. No costs.

(Dated this the 16th day of August 2012)



K. GEORGE JOSEPH
ADMINISTRATIVE MEMBER



JUSTICE P.R. RAMAN
JUDICIAL MEMBER

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