

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A.No.576/96

Tuesday, this the 28th day of April, 1998.

CORAM:

HON'BLE MR AM SIVADAS, JUDICIAL MEMBER

HON'BLE MR SK GHOSAL, ADMINISTRATIVE MEMBER

Jalaluddin Alimalmigothi,
Junior Engineer,
Port Department,
Kavaratti.

- Applicant

By Advocate Mr MR Rajendran Nair

Vs

1. The Port Officer,
Administration of Union Territory of Lakshadweep,
Department of Ports,
Kavaratti.
2. The Administrator,
Union Territory of Lakshadweep,
Kavaratti.
3. Union of India represented by
Secretary to Government of India,
Department of Agriculture & Co-operation,
Krishi Bhavan,
New Delhi.
4. T.P.Aboobacker,
Chief Engine Driver,
Mechanised Barge 'SUHELI'
attached to MB 'YOGESH'
Stationed at Kavaratti Island.
5. M Mohammed Manikfan,
Chief Engine Driver,
MB 'MEERA' Stationed at Minicoy Island. - Respondents

By Advocate Mr S Radhakrishnan, ACGSC(for R.1 to 3)

By Advocate Mr PV Mohanan(for R.4)

The application having been heard on 28.4.98, the
Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR AM SIVADAS, JUDICIAL MEMBER

The applicant seeks to quash A-2 rules and to declare that A-1 rules govern the recruitment to the post of Assistant Engineer(Shipping) and to direct the respondents to fill up the post of Assistant Engineer(Shipping) following A-1 rules.

2. The applicant is a Junior Engineer with Diploma in Mechanical Engineering. He has got seven years of experience as Junior Engineer. As per earlier recruitment rules, the post of Assistant Engineer(Shipping) is to be filled up by transfer on deputation, failing which by direct recruitment. The requisite qualification for direct recruitment includes Diploma in Mechanical Engineering with about three years experience in a large Mechanical or Marine Workshop in a responsible capacity(A-1). As per A-2, the earlier recruitment rules, A-1, have been superseded. As per A-2, no minimum educational qualification is prescribed for promotion to the post of Assistant Engineer from the feeder categories of Junior Engineer/Chief Engine Driver.

3. In the reply statement filed by the respondents, it is stated that Chief Engine Driver does not have any other avenue of promotion, that feeder posts for the post of Assistant Engineer(Shipping) are Chief Engine Driver/Junior Engineer, that the revised recruitment rule for the post of Assistant Engineer(Shipping) is more generous to the feeder category of Junior Engineer, that the post of Junior Engineer is feeder post to the post of Chief Engine Driver, that this would enable the Chief Engine Driver and Junior Engineer to get chance of being considered for promotion and that as the method of recruitment does not provide for direct recruitment no educational qualification has been prescribed in the new recruitment rule. It is also stated in the

reply statement that requisite educational qualifications of different kinds have been prescribed for appointment to feeder posts and any person qualified to take feeder posts is eligible for promotion on acquiring required years of qualifying service.

4. The legal position applicable here has been clearly held by the Apex Court in VK Sood Vs Secretary, Civil Aviation and others (AIR 1993 SC 2285). There it is held that it is for the rule making authority or for the Legislature to regulate the method of recruitment, prescribe qualifications etc. and it is not the province of the Court to trench into and prescribe qualifications in particular when matters are of the technical nature.

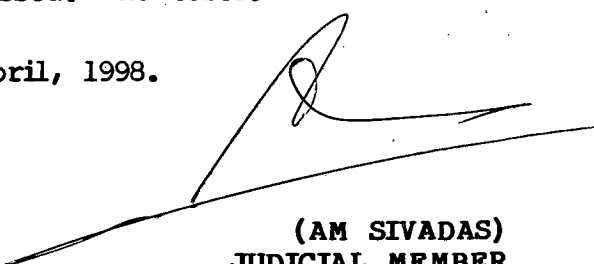
5. In J Ranga Swamy Vs Government of Andhra Pradesh and others (AIR 1990 SC 535), it has been held that it is not for the Court to consider the relevance of qualifications prescribed for various posts.

6. In the light of the dictum laid down by the Apex Court referred to above, this O.A. is only to be dismissed.

7. Accordingly the O.A. is dismissed. No costs.

Dated, the 28th April, 1998.


(SK GHOSAL)
ADMINISTRATIVE MEMBER


(AM SIVADAS)
JUDICIAL MEMBER