

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O. A. No.  
~~XXXXXX~~

589 of 1991.

DATE OF DECISION 30.1.92

K. Sasi

Applicant (s)

Mr. M. Girijavallabhan

Advocate for the Applicant (s)

Versus

The Flag Officer Commanding-in-Chief, Southern Naval Respondent (s)  
Command, Cochin and others.

Mr. George Joseph-R1&2.

ACGSC

Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. S.P. Mukerji - Vice Chairman

and

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

(Hon'ble Shri S.P. Mukerji, Vice Chairman)

In this application dated 3.4.91 filed under Section 19 of the Administrative Tribunals Act, the applicant who has been working as Turner HS-I under the Flag Officer Commanding-in-Chief, Southern Naval Command, Cochin has prayed that the respondents be directed to promote him as Turner HS-I with effect from 1.3.91 against 8th the reserved vacancy in preference to the third respondent. According to the applicant, who is a member of the Scheduled Caste, there were nine posts in Tradesman H.S.I (Turner) for which Tradesman HS-II who have qualified in the departmental test are eligible. While the 8th post was filled up by promoting the third respondent <sup>with effect</sup> from 1.3.91 the applicant

was given the 9th post which fell vacant on 1.4.91 and the applicant was promoted with effect from that date. His grievance is that the third respondent was transferred from another unit and promoted as H.S.I with effect from 1.3.91 when the applicant was qualified to be promoted. He has argued that when Shri P.M.Ninan retired as Turner HS-I on 28.2.91 the vacancy accruing thereby fell on the 8th point of the roster which should have given to a Scheduled Caste under the 40 point roster system. Instead <sup>of it</sup> ~~it~~ <sup>the</sup> being given to the third respondent by transferring him from <sup>the</sup> Naval Armament Depot, Aluva. The applicant represented on 8.3.91 and it was only after that, <sup>that</sup> ~~it~~ the applicant was promoted with effect from 1.4.91. His representation has not yet been replied to.

2. In the counter affidavit the respondents have clarified that <sup>there are</sup> 8 posts of Turner HS-I under Respondent No.2, 5 of which are in the Naval Ship Repair Yard, Cochih, one at Naval Aircraft Yard, Cochin and two at the Naval Aramament Depot, Aluva. The posts <sup>fall under</sup> at Cochin and Aluva <sup>are</sup> ~~are~~ <sup>under</sup> separate 40 point rosters but Tradesman HS-II both at Cochin and Aluva are eligible to be promoted against the vacancies occurring either in Cochin or Aluva. Both the third respondent as well as the applicant were borne in the cadre of Turner HS-II <sup>at</sup> ~~in~~ Naval Armament Depot, Aluva. Whereas the third respondent was promoted to HS-II on 15.10.84 the applicant had been so promoted on 12.4.89 and was thus junior to him. During March/April, 1991 two vacancies of Turner HS-I arose in <sup>the</sup> Naval Ship Repair Yard, Cochin, one due to the retirement of Shri Ninan on 28.2.91 and the other by creation of a new post.

The D.P.C. prepared a panel and placed the third respondent at Sl.No.1 and since the applicant had not completed three years of service as Turner HS-II, the third respondent was promoted as HS-I with effect from 1-3-91 and the applicant was promoted by the second choice of the Recruitment Rules having been placed at Sl.No.2 in the panel, with effect from 1.4.91. They have clarified that the 40 point roster in Cochin was commenced in 1974 and the two vacancies which arose in March and April, 1991 <sup>were</sup> at points 13 and 14. The 13th point being a general vacancy was given to Respondent No.3 while the 14th point being a reserved point was given to the applicant. The respondents have also given a detailed tabular statement of the various vacancies of Turner HS-I at the Naval Base, Cochin which have been filled up on the 40 point roster.

3. In the rejoinder without challenging the tabular statement <sup>giving</sup> the implementation of the 40 point roster, the applicant has given the details of promotion of Turners <sup>to</sup> and retirement <sup>from</sup> HS-I.

4. We have heard the arguments of the learned counsel for both the parties. Even assuming that as alleged by the applicant the vacancy which fell on 1.3.91 on the retirement of Shri P.M.N<sup>an</sup>inan was a reserved 8th point vacancy to be filled up by the applicant, since the applicant was not eligible for promotion as Turner HS-I on that date as he had not completed 3 years of service as HS-II and there was a general candidate senior to him who was eligible for such promotion, the applicant cannot claim preference over respondent No.3. It also appears that the 8th vacancy which arose on 17.10.86 had to be carried forward for 3 years as no

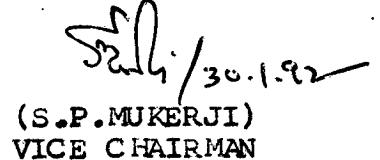
Scheduled Caste candidate was available for filling up the vacancy on that date. The reservation criterion could not go beyond 3 recruitment years when promotion was made on 21.4.87, 25.1.90 and 1.3.91 after which the reservation against that vacancy lapsed. The next vacancy on the 14th point which fell vacant on 1.4.91 was readily given to the applicant.

5. In the facts and circumstances we see no merit in the application and dismiss the same without any order as to costs.



30.1.92

(A.V. HARIDASAN)  
JUDICIAL MEMBER



S.P. Mukerji / 30.1.92

(S.P. MUKERJI)  
VICE CHAIRMAN

30.1.92

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