

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**ERNAKULAM BENCH**

**Original Application No. 594 of 2011**

**Monday, this the 25<sup>th</sup> day of July, 2011**

**CORAM:**

**Hon'ble Mr. Justice P.R Raman, Judicial Member**  
**Hon'ble Mr. K. George Joseph, Administrative Member**

1. Abdul Naser P.K., Constable (Exe) 5199001  
India Reserve Bataliaon, Dolphin Camp, Diu.  
Residing at Pandarath Kattapura House,  
Androth Island, Union Territory of Lakshadeep.
2. Mujeeb Rahman A.C., Constable (Exe) 5199185,  
India Reserve Battalion, E-2 Coy, RHO, Silvassa, Diu  
Abath Chetta, Androth Island, Union Territory of Lakshadeep.
3. Mohammed Fathahudheen, Constable (Exe)  
5199148, India Reserve Battalion, E-2 Coy, RHO,  
Silvassa, Diu, Residing at Edacheri Puthiya Manzil House,  
Androth Island, Union Territory Lakshadeep.
4. Hussain U.K., Constable (Exe) 5199080,  
India Reserve Battalion, E-2 Coy, RHO, Silvassa,  
Diu, Ummarthakada House, Androth Island,  
Union Territory, Lakshadeep. .... **Applicants**

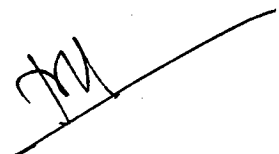
**(By Advocate – Mr. P.R. Sreejith)**

**V e r s u s**

1. The Administrator, Union Territory of Lakshadweep,  
Kavaratti, Pin : 682 555.
2. The Commandant, India Reserve Bettalion,  
Lakshadweep, Daman & Diu and Dadra &  
Nager Haveli, HQ Kavaratti, Pin : 682 555.
3. The Deputy Commandant, RHQ,  
Silvassa, Pin: 396230. .... **Respondents**

**(By Advocate – Mr. S. Radhakrishanan)**

This Original Application having been heard on 25.7.2011, the



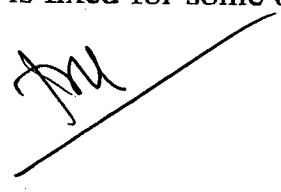
Tribunal on the same day delivered the following:

**ORDER**

**By Hon'ble Mr. Justice P.R. Raman, Judicial Member -**

The applicants are working as a Constable in the Indian Reserve Battalion, Daman & Diu and Dadra & Nagar Haveli under the administrative control of the first respondent. For promotion to the post of Head Constables an examination was conducted on 25.6.2011 at Head Quarters, Kavaratti and RHQ, Silvassa. Promotion is to be made based on seniority cum merit. The qualifying marks is fixed as 40% for promotion. According to the applicants being a member of SC/ST pass marks should have been fixed as 25%. Representations were made seeking to fix the qualifying marks as 25% for ST. The administration by Annexure A-8 after consideration of the representation wrote to the individual that the matter was examined by the Hqrs. as well as by the administration of the Lakshadweep and it has been decided to fix the qualifying marks for pre-promotion test as 40% for IRB personnel.

2. It is true that in the matter of fixation of qualifying marks for promotion in the case of reserve category like SC/ST, under proviso to Article-335 of the Constitution lesser marks could be prescribed. However, we cannot as such give any direction in this regard. This Court cannot issue any writ of mandamus compelling the respondents to fix any marks to SC/ST. The representation has been considered and disposed of fixing 40% as marks for pre-promotion examination and we do not find any illegal or unconstitutional in Annexure A-8. The fact that 25% is fixed for some other



service by itself is no reason that such marks should be uniformly fixed for all the service. It is always open for the concerned authority, having due regard to the service in question, as to what should be the marks to be fixed for promotion in the case of SC/ST and whether they want to give any relaxation in qualifying marks. The fact that there is enabling provision by itself does not mean it is compelling on the respondents to fix such marks.

3. In the circumstances, we find no merit in this Original Application and accordingly, it is dismissed. No order as to costs.



**(K. GEORGE JOSEPH)**  
**ADMINISTRATIVE MEMBER**



**(JUSTICE P.R. RAMAN)**  
**JUDICIAL MEMBER**

**"SA"**