

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA 611/2000

Wednesday the 7th day of June, 2000.

CORAM

HON'BLE MR A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

G.Suseela
D/o Raman Chellappan
Sepoy, Customs House
Cochin-9

Applicant

By advocate Mr V.R.Ramachandran Nair

Versus

1. Union of India represented by
Secretary to the Govt. of India
Ministry of Finance,
Department of Revenue
New Delhi.
2. The Central Board of Excise and Customs
represented by its Chief Commissioner
New Delhi.
3. The Commissioner of Customs
Customs House, Cochin.
4. The Joint Commissioner of Customs(P&V)
Customs House, Cochin.
5. The Deputy Commissioner of Customs
Customs House
Cochin-9.

Respondents

By advocate Mr K.R.Rajkumar, ACGSC

The application having been heard on 7th June, 2000,
the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR A.V.HARIDASAN, VICE CHAIRMAN

Applicant who was initially appointed as Safaiwala
under the third respondent was appointed by transfer as Sepoy
with effect from 16-6-98 by A-3 order. The grievance of the
applicant now is that on the basis of an order of the Tribunal
in OA 1200/98, the fourth respondent has issued A-6 show cause
notice proposing to demote the applicant to the post of

Safaiwala as the applicant did not possess the physical standard as prescribed in the Recruitment Rules. The applicant has been given 10 days' time to make a representation if any against the proposal. Aggrieved by that, the applicant has filed this application seeking to have the show cause notice set aside. Applicant has also impugned the Recruitment (Group 'D') (Amendment) Rules, 1985 of the Customs Department to the extent it does not provide for relaxation in height by 2.5 cms and weight by 2 kg to the members of the Scheduled Caste community as granted to the Gurkhas, Gorwalis, Assamese and members of the Scheduled Tribe. It is alleged in the application that discrimination between Scheduled Caste and Scheduled Tribe is arbitrary and irrational and, therefore, to that extent the provision in the Recruitment Rules is unsustainable on the ground of hostile discrimination.

2. We have perused the application and the annexures thereto and have heard Mr V.R.Ramachandran, the learned counsel of the applicant and Mr Raj Kumar, the learned counsel for the respondents.

3. Mr Ramachandran Nair, in support of the challenge to the provision in the Recruitment Rules, invited our attention to the ruling of the apex court in Posts & Telegraphs Employees Welfare Association Vs. Union of India 1989 AIR SC 139 wherein it was held that not providing for concession in the matter of time bound promotion to the members of the SC and ST is unreasonable. This observation on the facts and

circumstances of the case has no comparison or relevance to the facts or the issue involved in this case. The relaxation in physical standard for members of the Gurkhas, Gorwalis and Assamese community and Scheduled Tribes, was granted by the Government taking into account the geographical, racial and environmental factors. This policy of the Government cannot be called in question unless it is totally unreasonable. Even prima facie, there is nothing to suggest that the policy is irrational. Therefore, the challenge to the recruitment rules cannot be entertained. Now coming to the impugned order A-6, it is only a show cause notice and the applicant has been given 10 days' time to submit her explanations. The applicant has also submitted her explanations on 2/6/2000. The respondents are yet to take a decision on the proposal after considering the applicant's representation. Only if the decision communicated is detrimental to the applicant she would get a cause of action to approach this Tribunal.

4. In the light of what is stated above, the application is rejected under Section 19 (3) of the Administrative Tribunals Act, 1985. No order as to costs.

Dated 7th June, 2000.



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER

aa.



A.V. HARIDASAN
VICE CHAIRMAN

Annexures referred to in this order:

A-3:True copy of office order No.58/98 dated 16.6.98 issued by the Assistant Commissioner of Customs (Estt) showing the duty report of the applicant as Sepoy.

A-6: True copy of the show cause notice No.C 16/32/98-Estt Cus Pt dated 23.5.2000 issued by the Joint Commissioner of Customs (P&V).