

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Original Application No. 612 of 2006

Friday, this the 20th day of June, 2008

C O R A M :

HON'BLE DR. K B S RAJAN, JUDICIAL MEMBER
HON'BLE DR. K S SUGATHAN, ADMINISTRATIVE MEMBER

P. Balan,
S/o. P. Sekharan,
Peon, Naval Armament Depot,
Main Office, Aluva,
Residing at ' Pallavayal House',
Gramaparamp, NAD PO,
Nochima, Aluva. ... Applicant.

(By Advocate Mr. Shafik M.A.)

v e r s u s

1. Union of India, represented by
The Flag Officer-Commanding-in-Chief,
Southern Naval Command, Cochin.
2. The Chief General Manager,
Naval Armament Depot, Aluva. ... Respondents.

(By Advocate Mr. Sunil Jose, ACGSC)

O R D E R
HON'BLE DR. K B S RAJAN, JUDICIAL MEMBER

The applicant initially joined the Command as casual watchman in May, 1981 and in October, 1982 his services were regularized w.e.f. 15.05.1981 onwards. Annexure A-3 refers. In 1995, he was transferred as peon under Flag Officer, Sea Training and in 1998 he was transferred to Naval Armament Depot, Aluva.

2. In 1999, the Government introduced ACP scheme, whereby persons not having any promotion for 12/24 years would be afforded first/second financial upgradation, subject to the condition that they are eligible for promotion to the higher post. When the applicant claimed that he should be afforded ACP as his service reckons from 1981 onwards, respondents, vide rejected claim, vide Annexure A-1 order dated 18th January, 2006 stating that the applicant has not qualified in the DQT for Ferro Printer for grant of second financial upgradation under ACP scheme to the scale of Rs 2,750 – 4,400. The respondents have also, vide Annexure A-2 order dated 23-01-2006 stated in reply to the applicant's representation dated 28-11-2005 wherein he has cited certain court decisions and grant of benefits to the applicants therein, that the benefits were granted only to those who were before the court and not to others. The applicant has challenged the decision of the respondents.

3. Respondents have contested the O.A. It has been contended that for financial upgradation in the present post, the applicant has to qualify the DQT for the next higher post of Ferro Printer. Daftaries, Gestetner Operators or those peons who have completed 23 years of regular service from the date of absorption in the grade are eligible to appear for the DQT for Ferro Printer. Such a test was conducted on 28-03-2006, but the applicant did not utilize the opportunity. Thus, the condition for ACP not being fulfilled, the applicant is not entitled to the ACP.

4. The applicant has filed his rejoinder in which he contended that he could

not take the DQT, as he was not given any opportunity to take up the test. Respondents have deliberately denied the opportunity to the applicant to participate in the DQT. No information was given to the applicant about the conducting of the DQT on 28-03-2006.

5. In their additional reply, the respondents have annexure Annexure R-1 which is a communication from Southern Naval Command, addressed to all the Commanding Officers under FOC-in-C, Southern Naval Command, Kochi prescribing the eligibility conditions for sitting for the DQT and calling for requisite applications. Annexure R-2 to the additional reply is the result of one such DQT held on 21st December, 2006. The applicant was declared qualified therein and the respondents have also stated that the applicant has been granted the 2nd Financial upgradation w.e.f. 21st December, 2006. By way of an affidavit, the respondents have annexed a copy of the Recruitment Rules, which stipulate pass in the Departmental Qualifying Test.

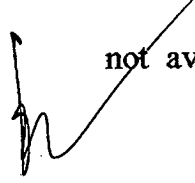
6. Counsel for the applicant submitted that while others had been given the opportunity, the applicant was not given that opportunity to take part in the Departmental Qualifying Test. In order to verify the same, the respondents were advised to produce the relevant records in respect of Naval Armament Depot where the applicant has been serving and Naval Armament Inspectorate, wherefrom one had qualified. The purpose of calling for the records has been to ascertain whether uniformly, notice for the DQT has been given to all concerned.

The same having been filed, after hearing the parties the order was reserved.

7. From the records of Naval Armament Depot, it is seen that the Southern Naval Command's communication relating to holding of DQT vide order dated 21st September, 2005 was received by the N.A.D.30-09-2005. One Smt. P.V. Bhama, Safaiwala had applied for the same vide application dated 8th October, 2005. Another communication dated 13th November, 2006 was issued by the Southern Naval Command which was received by the N.A.D. on 14th November, 2005. One Shri Sankaranarayanan Peon had preferred application. The applicant along with three more persons had also applied and these were forwarded to the Southern Naval Command, vide letter dated 18-11-2006. The Southern Naval Command had advised the NAD to direct the persons who had preferred their application for sitting for the DQT to report to the Headquarters on 21st December, 2006. The name of the applicant had also figured in. It was in this test that the applicant had qualified, as communicated by the Southern Naval Command vide letter dated 4th January, 2007. This was seen by the applicant, as per endorsement in the said letter.

8. In Naval Armament Inspectorate also, Communication dated 21st September, 2005 from Southern Naval Command was received and one Shri P.V. Surendran, Daftry had applied for the same.


9. Thus, from the perusal of the records it is seen that the notice of the DQT vide SNC letter dated 21-09-2005 had been given and it is the applicant who did not avail of the opportunity. However, later on, in December, 2006, he had

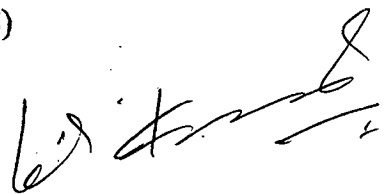


participated and had qualified in the DQT, consequent to which he had been afforded the second financial upgradation w.e.f. 21-12-2006. The respondents have acted properly and the claim of the applicant for 2nd Financial Upgradation even to prior to his qualifying in the DQT is unsustainable.

10. In view of the above, the OA is dismissed. No costs.

(Dated, the 20th June, 2008)


(Dr. K S SUGATHAN)
ADMINISTRATIVE MEMBER


(Dr. K B S RAJAN)
JUDICIAL MEMBER

cvt.