

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Original Application No. 73 of 2013

TUESDAY, this the 12th day of February, 2013

CORAM:

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

P. Ponkidave @ Noorul Ameen, aged 46 years,
 S/o. Cheriya Koya, Police Head Constable B. No. 337,
 Kadamat Police Station, Union Territory of Lakshadweep,
 Residing at Kadamat Island. **Applicant**

(By Advocate – Mr. T.C. Govindaswamy)

V e r s u s

1. The Administrator, Union Territory of Lakshadweep,
 Kavaratti-682 555.
2. The Superintendent of Police,
 Union Territory of Lakshadweep,
 Kavaratti-682 555. **Respondents**

(By Advocate – Mr. S. Radhakrishnan)

This application having been heard on 30.01.2013, the Tribunal on
12-02-2013 delivered the following:

ORDER

By Hon'ble Mr. K. George Joseph, Administrative Member-

Annexure A5 fax message dated 13.8.2012 for conducting an
 examination for promotion to the post of Assistant Sub Inspector of Police
 (ASI) is challenged by the applicant.

2. He was deprived of an opportunity of being considered for promotion
 to the post of ASI along with juniors in the year 2011 as he was on election



duty. The applicant seeks the following reliefs:-

“(i) Call for the records leading to the issue of A5 and quash the same;

(ii) Declare that the respondents are bound to conduct an examination for the available vacancies of ASI by considering the applicant and like others who are identically situated in that who could not participate in the earlier examination, despite expressing their willingness for the earlier selection and direct the respondents to conduct the selection accordingly;

(iii) Direct the respondents to conduct a written test for the applicant and like others who had expressed their willingness for the earlier written test as directed in A4 order of this Hon'ble Tribunal and who could not be relieved or who were not relieved to participate in the written test conducted on 29.4.2011 and direct further to grant all consequential benefits arising therefrom;

(iv) Award costs of and incidental to this Application;

(v) Pass such other orders or directions as deemed just, fit and necessary in the facts and circumstances of the case.”

3. The applicant submitted that Annexure A5 is issued in compliance with the direction of this Tribunal in OA No. 445 of 2011 wherein this Tribunal directed the applicant & others who could not participate in the written test in the year 2011 be granted an opportunity to participate in a test to be conducted in the event of availability of vacancy. According to him there are four vacancies and the proposed written examination as per Annexure A5 is for filling up these vacancies. Annexure A5 to the extent it invites willingness including the persons who have not expressed their willingness earlier is arbitrary, discriminatory and contrary to law.

4. Parties were heard and documents perused.



5. OA No. 445 of 2011 was disposed of as under:-

"35. The Senior Counsel for the applicant submitted that the performance of those are undergoing training is not upto the mark as per the information gathered. If so, there is a likelihood of some of them not being recommended for promotion after training in which event such vacancies may have to go for others. In that event, the respondents would be sending the requisite number of candidates qualified in the previous test. Though the applicants are generally to be held to have been less vigil, the geographical situation of the islands and other constraints attendant to such situation are to be pragmatically viewed. As such, interest of justice would be met if the Department conducts a test for the applicants and the other similarly situated persons in advance and in the event of they qualifying in the promotional test, against the vacancies that may be available, if senior amongst the qualified candidates are detailed for training. This arrangement would satisfy the applicants.

36. In view of the above, these O.As are **disposed** of with the direction to the official respondents that in the event of any necessity to send any further persons for training due to any of the persons already sent declared not qualified in the training, instead of sending the candidates from the qualified list, the applicants and other similarly situated persons may be given a chance to participate in the promotion test and their performance ascertained and on the basis of seniority amongst the qualified candidates, requisite number of candidates may be sent for training."

6. The direction of this Tribunal is to give a chance to those who could not participate in the promotion test held in the year 2011 in case any vacancy arise due to non-qualification of persons already sent for training instead of sending candidates from the qualified list. The counsel for the respondents during hearing had submitted that none of the persons who were sent for training failed to qualify. Therefore, there is no vacancy in respect of which the applicant can be given chance as directed in the above said OA. All eligible candidates can participate in the examination proposed for the promotion test as per Annexure A5. The applicant can also attend the same. There is no violation of the direction by this Tribunal in OA No. 445 of 2011 by the respondents as no vacancy of the kind described in the order has



arisen. We do not find any arbitrariness, discrimination or violation of law in issuing Annexure A5 by the respondents.

7. Devoid of merit, the OA is dismissed with no order as to costs.



(K. GEORGE JOSEPH)
ADMINISTRATIVE MEMBER



(JUSTICE P.R. RAMAN)
JUDICIAL MEMBER

"SA"