

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM.

O. A. No. 73/90  
~~XXXXXX~~

109  
~~XXX~~

DATE OF DECISION 26.10.1990

P.K.Gopalakrishnan Achary Applicant (s)

M/s U.K.Ramakrishnan, Advocate for the Applicant (s)  
E.K.Madhavan and C.P.Ravindranath  
Versus

Union of India rep. by Respondent (s)  
Secretary, Ministry of Defence and others

Mr.P.Santhoshkumar, ACGSC Advocate for the Respondent (s)  
for R.1 & 2

CORAM:

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

and

The Hon'ble Mr. N.Dharmadan, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. To be circulated to all Benches of the Tribunal? *No*

JUDGEMENT

(Hon'ble Mr. N.Dharmadan, Judicial Member)

The applicant is at present working as Carpenter (Highly Skilled-I) in the Naval Stores Depot. Originally he was working in Base Repair Organisation. But on 1.11.1988 he was promoted to the post of Carpenter (H.S-I) and posted to the Naval Stores Depot. This was accepted by him because the post of Carpenter in Naval Stores Depot and that of Shipwright in the Base Repair Organisation are similar posts. He also believed that he will be promoted to the next higher post. Accordingly he sat in the examination held on 11.8.89 for promotion as Sr. Chargeman (Carpenter) along with the third respondent. Though he passed in the

Examination, he was not appointed. On the other hand the third respondent was appointed in the vacant post notwithstanding his failure in the said examination. Applicant's representation seeking promotion to the post of Chargeman(Carpenter) was rejected by Annexure-D order stating that he cannot be promoted since the post is reserved for Scheduled Caste candidate. Thereafter when a Departmental Examination was conducted for the promotion posts of Sr. Chargeman (Shipwright) the applicant was not allowed. <sup>to sit for the exam. b</sup> He filed Annexure-E representation and approached this Tribunal with the following reliefs:

- (i) To declare that the order Annexure D and the denial of promotion to applicant is illegal, arbitrary and violative of Articles 14 and 16 of the Constitution of India;
- (ii) To declare that the applicant is eligible to be considered for promotion to the post of Chargeman (Shipwright);
- (iii) to issue such other orders or direction as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

2. The second respondent agreed to allow the applicant to sit for the Departmental Examination for ~~the~~ promotion to the post of Chargeman (Shipwright) on the basis of the orders of this Tribunal.

3. Today when the case was taken up for arguments, the learned counsel for the respondents submitted that the applicant is the only person who passed in the examination conducted by the second respondent and that a decision had been taken to promote the applicant and post him as Chargeman (Shipwright). We record that submission. The applicant is satisfied with this decision and he does not want to proceed with this case.

<sup>and 4</sup>  
The promotion posting of the applicant as Chargeman (Shipwright) in the

.3.

manner indicated above will not affect the posting of the third respondent as stated above. The respondents 1 and 2 will make the promotion in the light of the decision referred above within a period of two weeks from the date of receipt of copy of the judgment.

4. In the light of the above statement and directions, nothing further to be considered in this case and the application is allowed to this extent. There will be no order as to costs.

  
(N. DHARMADAN) 26.10.90  
JUDICIAL MEMBER

  
(S.P. MUKERJI)  
VICE CHAIRMAN  
26.10.90

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM  
R. A. 134/90 in  
O.A. No. 73/90  
T.A. No.

199

DATE OF DECISION 7.3.91

Union of India rep. by Secretary Applicant (s)  
Ministry of Defence, Govt. of India, New Delhi & another

Mr. V. Krishnakumar, AGGSC Advocate for the Applicant (s)

Versus

P. K. Gopalakrishnan Achary & Respondent (s)  
P. R. Narayanan

Mr. C. P. Ravindranath Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. S. P. MUKERJI, VICE CHAIRMAN

The Hon'ble Mr. N. DHARMADAN, JUDICIAL MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. To be circulated to all Benches of the Tribunal? *No*

JUDGEMENT

MR. N. DHARMADAN, JUDICIAL MEMBER

The respondents in the Original Application No. O.A. 73/90 have filed the Review Application with a statement from the learned counsel then appeared on behalf of the respondents, which is produced as Annexure R-1, in which it has been stated that the Tribunal passed the order on the basis of his statement; but the Department had not actually taken a decision to promote the applicant and to post him as Chargeman (Shipwright). Hence, this application has been filed with the prayer that the judgment rendered by us in the Original Application No. 73/90 may be reviewed.

2. We have heard arguments of learned counsel for both parties. The learned counsel appearing on

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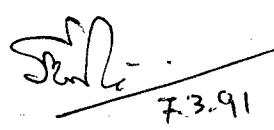
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behalf of the review applicants submitted that no decision had been taken by the Department to promote the applicant to the post of Chargeman (Shipwright) at the time when the case was disposed of as per the judgment dated 26.10.90. It is also submitted that the Department is prepared to promote the applicant to the post of Chargeman (Shipwright) as per the rules after placing his case before the Departmental Promotion Committee for consideration and if the DPC recommends his promotion.

3. .... However, the submission made by the learned counsel who appeared on behalf of the respondents on 26.10.90 was that a decision was taken by the Government to promote the applicant since he was the only person who passed the examination conducted by the respondents. Accordingly, we disposed of the O.A. referring to this statement. There is no material before us to satisfy us that the Government did not take any decision to promote the applicant as submitted by the learned counsel who appeared on 26.10.90. If the DPC's recommendation is necessary to implement the decision already taken by the Government for promoting the applicant, the Department may comply with the same.

4. .... Under these circumstances we see no reason to review the judgment on the basis of the statement now made by the learned counsel for the respondents. We dismiss the R.A.

  
(N. DHARMADAN)  
JUDICIAL MEMBER

  
(S. P. MUKERJI)  
VICE CHAIRMAN