

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.78/2001

Monday this the 22nd day of January, 2001

CORAM

HON'BLE MR. A.V. HARIDASAN , VICE CHAIRMAN
HON'BLE MR.T.N.T. NAYAR, ADMINISTRATIVE MEMBER

N.K. Bharathan, Mazdur,
Office of the Assistant Garrison-Enginer
(E/M No.1), Naval base,
Kochi.4.Applicant

(By Advocate Mr.N.N.Sugunapalan (rep.))

V.

1. Garrison Engineer (E&M)
Naval base, Katari Bagh,
Kochi.4.
2. Commander Works Engineer,
Naval Base, Kochi.4.
3. The Chief Engineer (Navy)
Naval Base, Kochi.4.
4. The Chief Enginer,
Headquarters, Southern Naval Command,
Pune.1.
5. The Engineer-in-Chief,
Army Headquarters,
Enginer-in-Chiefs Branch
Army Headquarters,
New Delhi.11.
6. Union of India, represented by
the Secretary to Minitry of
Defence, New Delhi.Respondents

(By Advocate Mr.K.Kesavankutty)

The application having been heard on 22.1.2001, the
Tribunal on the same day delivered the following:

O R D E R

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

The applicant commenced his service as a
Mazdoor under the Ist respondent on 10.12.1988. The
applicant appeared in an examination for promotion to

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the post of L.D.C. on 7.8.98. He belongs to Scheduled Caste category. Finding that though he had qualified in the typing test and became eligible to be placed in the panel, he was not appointed while several persons who participated in the examination along with him were appointed. The applicant made a representation on 09.12.99 to the 1st respondent (Annexure.A2) and another representation to the 4th respondent on the same day (Annexure.A3). Finding no response he made a reminder to the 4th respondent on 20.1.2000 (Annexure.A4). Finding that there is no response from either respondents the applicant earlier approached this Tribunal by filing O.A.286/2000 for a direction to the respondents to publish the result of the test conducted by the respondents for the post of LDC on 7.8.98 and to appoint the applicant to one of the vacancies available. That application was disposed of as agreed to by the counsel appearing on either side directing the 4th respondent to consider the representation at Annexures A3 and A4 therein and to give the applicant an appropriate reply within a period of three months.

2. In obedience to the above direction, the 4th respondent issued the impugned order Annexure.A6 dated 22.7.2000 by which the applicant has been told that as a result of the DPC which was held in 1997-98 and 98-99 including 15 vacancies to be filled by members of the Scheduled Caste Community, the applicant could not be promoted because of the lower seniority position and that the last person appointed towards the 15 SC vacancies was at Sl.No.29 in the seniority

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list while the applicant was only at Sl.No.32. It has also been stated that the last Scheduled Caste Candidate promoted against 15 vacancies reserved for Scheduled Castes was of the recruitment year April, 1987 while the applicant was of 10th February, 1988. Dissatisfied with this, the applicant has filed this application. It is alleged in the application that since the applicant has acquired the qualification having passed the test, he should have been considered against the vacancies that would arise thereafter. It is evident from the pleadings in this application that the recruitment rule has already been amended with effect from 31.7.1999.

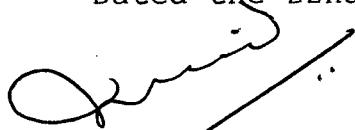
3. Having heard the learned counsel of the applicant and Shri Kesavankutty appearing for the respondents and on a perusal of the application and the annexures appended thereto, we are of the considered view that the impugned order cannot even be *prima facie* faulted. They have informed the applicant that there were only 15 vacancies to the quota of Scheduled castes and the last person appointed from the Scheduled Caste was at Sl.No.29 in the seniority list while the applicant was at Sl.No.32. The applicant has no case that any appointment has been made overlooking the applicant's position in merit and seniority. Mere qualifying in the test does not entitle a person to be appointed to a post. Only those who come within the number of vacancies for the

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appropriate quota can be appointed towards the vacancies in the quota.

4. In the result, we do not find anything in this application which call for admission and further deliberation. Hence the application is rejected under Section 19(3) of the Administraive Tribunals Act.

Dated the 22nd day of January, 2001


T.N.T. NAYAR
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

s.

List of annexures referred to:

Annexure.A2:True copy of representation submitted by the applicant to the 1st respodnent dated 9.12.99.

Annexure.A3:True copy of the representation submitted byt the applicant to the 4th respondent dated 9.12.99.

Annexure.A4:True copy of representation submitted by the applicnat to the 4th respondent dated 20.1.2000.

Anenxure.A6:True copy of speaking order No.109011/CEKZ/NKB/7/LC dated 22.7.2000 of the 4th respondent issued to the applicant.

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