

CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O.A.No.81/97

Wednesday this, the 2nd day of April, 1997.

CORAM:

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

HON'BLE SHRI P.V.VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

Joseph James,
Sub Inspector of Police,
Minicoy Island,
Union Territory of Lakshadweep,
residing at Police Quarters,
Minicoy.

.. Applicant

(By Advocate Mr.P.V.Mohanan)

vs.

1. The Administrator,
Union Territory of Lakshadweep,
Kavaratti.

2. The Superintendent of Police,
Union Territory of Lakshadweep,
Kavaratti.

.. Respondents

(By Advocate Mr.S.Radhakrishnan(rep.))

The Application having been heard on 2.4.97, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN:

The applicant who was recruited directly as a Sub Inspector of Police in the year 1976 was promoted on ad hoc basis as Inspector of Police on 9.11.89 and was subsequently reverted as S.I. of Police in March 1995, is aggrieved by the fact that though there are two vacancies one in Telecommunication and the other in the Executive wing, the respondents did not consider his case for promotion as Inspector of Police despite a direction given in that regard in the order in O.A.No.1367/95. The applicant has also

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alleged that there is a requirement of a post of Inspector of Police at Androth and therefore it is in public interest also to promote the applicant to the post of Inspector of Police. With the above allegations the applicant has filed this application for a direction to respondents to promote the applicant to the post of Circle Inspector of Police forthwith with all consequential benefits and also to consider and promote the applicant to the post of Circle Inspector of Police, Telecommunication which arose in 1989 with all consequential benefits.

2. The respondents in their reply contend that the applicant is not the seniormost among the Sub Inspectors of Police as there are two more persons senior to him waiting for promotion to the post of Inspector of Police, Telecommunication pursuant to the directions contained in the order of the Tribunal in O.A.1367/95, but found not suitable for promotion and that as there is no clear vacancy in the post of Inspector of Police now, the prayer of the applicant cannot be granted.

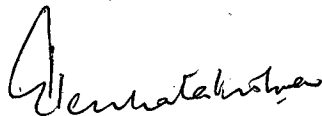
3. We have gone through the pleadings in this case and heard Shri P.V.Mohanan, counsel for applicant and the Additional Central Govt. Standing Counsel for respondents.

4. An officer has no indefeasible right to be promoted to a post, but has got only a right to be considered for promotion in accordance with the rules as and when action is being taken for filling up of the post. It is made clear in the reply statement that as such, there is no clear vacancy on which the applicant could be considered for promotion and the respondents do not say that they would not consider the applicant for promotion, as and when vacancy would arise. There is a dispute in the pleadings in regard to the existence of a vacancy. Respondents contend that one vacancy

mentioned in the application cannot be said to be clear as one Sri Sivadasan who has been promoted as Dy.S.P. is holding on that post under an order of stay issued by the Tribunal. However as the applicant is not the seniormost Sub Inspector he has no right to claim that he has to be promoted even if there is a vacancy. If there is vacancy in the post of Inspector, or if there is request to create regular posts, it is for the Administration to create the posts and make appointment in accordance with the recruitment rules. There is nothing to consider that the respondents would not do so. On the contrary the respondent considered the applicant for promotion to the post of Inspector of Police, Telecommunication but could not promote him as he was not found suitable.

5. In the light of what is stated above, we do not find that the applicant has at present a legitimate grievance which deserves redressal. As and when the recruitment action is taken for a sanctioned post of Inspector of Police, the respondents would consider the applicant also as he is within the zone of consideration and eligible to be considered. With the above observation, we dismiss the application. No costs.

Dated the 2nd April, 1997.


P.V. VENKATAKRISHNAN
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN