

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No.86/94

Thursday, this the 1st day of December, 1994.

C O R A M

HON'BLE MR JUSTICE CHETTUR SANKARAN NAIR, VICE CHAIRMAN
HON'BLE MR PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

....

P Venugopalan,
Cooperative Officer (Marketing),
Lakshadweep Office, Cochin.

....Applicant

By Advocate Shri MR Rajendran Nair.

Vs.

1. Union of India represented by the Secretary, Ministry of Home Affairs, New Delhi.
2. The Administrator, Union Territory of Lakshadweep, Kavaratti.
3. The Collector-cum-Development Commissioner, Union Territory of Lakshadweep, Kavaratti.

....Respondents

By Advocate Shri MVS Nampoothiri.

O R D E R

CHETTUR SANKARAN NAIR (J), VICE CHAIRMAN

Applicant, who had been working as a Tahsildar in an adhoc capacity without interruption ever since 7.2.84, seeks a declaration that such service rendered by him, is liable to be reckoned for purposes of seniority and eligibility for promotion. As the Departmental Promotion Committee did not meet for eight years between 1982 and 1990, case of applicant for regular appointment could not be considered. He approached this Tribunal and by orders in OA 1679/93, we directed respondents to hold a Review DPC to consider his claim. A Review DPC met and found him suitable for promotion.

contd.

However, respondents held that in spite of his suitability for promotion, benefits flowing from promotion, could be granted only prospectively.

2. Quite apart from the question whether a Review DPC is not required to consider eligibility for promotion from a date earlier in point of time to the actual promotion (that is the only purpose for which it was constituted), it is an admitted fact that the vacancy arose in 1984 (as seen from R.2) and that applicant was not considered only because the DPC did not meet. It is also an admitted fact that applicant was discharging the duties of the post uninterruptedly, and that he was qualified to hold the post. Therefore, this is a case where applicant had to remain in an adhoc capacity, for reasons entirely due to the respondents.

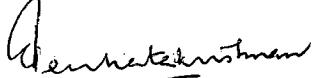
3. Ordinarily, adhoc service will not count for service benefits. But there are cases where such adhoc service remains adhoc service, solely due to the inertia of the Department. In such cases, the official concerned cannot be denied the service benefits. In S Krishnamurthy vs. The General Manager, Southern Railway, AIR 1977 SC 1868, the apex Court held that an official cannot be deprived of such benefits as he would have received, if the 'right thing' had been done at 'the right time'. In the same tenor are the later decisions--Baleshwardas and others vs. State of UP and others, 1980 (4) SCC 226, The Direct Recruit Class-II Engineering Officers' Association and others vs. State of Maharashtra and others, AIR 1990 SC 1607, Kailash Chandra Rajawat vs. Union of India and another, 1994 Supp (1) SCC 71, and Union of India and others vs. Satya Prakash Vasisht, (1994) 27 ATC 401.

4. An official is entitled to receive such benefits as he would ordinarily have received, if the right thing was done at the right time, notwithstanding the fact that he continued to function in an

adhoc capacity, because the right thing was not done at the right time. In this view, applicant is entitled to the benefit of seniority with effect from 7.2.84 as he remained in an adhoc capacity, only because the Departmental Promotion Committee did not meet for eight years. He will be deemed to have been regularly appointed on that date for purposes of promotion. It was submitted that no other official was promoted in between and hence, others will not be affected by this order.

5. Original Application is allowed as aforesaid. No costs.

Dated the 1st December, 1994.


PV VENKATAKRISHNAN
ADMINISTRATIVE MEMBER


CHETTUR SANKARAN NAIR (J)
VICE CHAIRMAN

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LIST OF ANNEXURES

1. Annexure R2: A true copy of the Minutes of the Review of Departmental Promotion Committee for Group C & D dated 19.11.1993.

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