

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No. 86 of 2010

Monday, this the 1st day of February, 2010

CORAM:

**HON'BLE Mr. JUSTICE M. RAMACHANDRAN, VICE CHAIRMAN
HON'BLE Ms. K. NOORJEHAN, ADMINISTRATIVE MEMBER**

P. Mohammed Shafi,
S/o. Late Cheriya Koya,
Residing at Pathumathada House,
Amini Island, U.T. of Lakshadweep,
Working as Police Constable, B.No. 413,
PHQ. Kavaratti, U.T. of Lakshadweep

... Applicant.

(By Advocate Mr. C.V. Manu Vilsan)

v e r s u s

1. The Administrator,
The UT of Lakshadweep,
Kavarathi.
2. The Superintendent of Police,
Kavarathi, Lakshadweep.
3. Union of India, Represented by its
Secretary, Ministry of Home Affairs,
Government of India, New Delhi.

... Respondents.

(By Advocates Mr. S. Radhakrishnan for R1-2) and
Ms. Deepthi Mary Varghese for R-3)

The Original Application having been heard on 01.02.2010, this Tribunal on the same day delivered the following :

O R D E R

HON'BLE MR. JUSTICE M. RAMACHANDRAN, VICE CHAIRMAN

The applicant, a police constable, is currently working at Police Headquarters, Kavarathi. He commenced his services in the year 2003 and it is submitted that at the time he entered into service the Recruitment Rules provided that for higher post of Assistant Sub Inspector (Wireless Operator) experience was not one of the eligibility criterion. Vacancies in fact were notified in the year 2005 to which he had responded, but that selection process had been subsequently discontinued. Later on, by Lakshadweep Gazette, Extra Ordinary

Notification dated 05.01.2009, the Lakshadweep Police Wireless (Group 'C' Posts) Recruitment Rules have been amended and because of incorporation of 'experience' as a mandatory requirement for selection / promotion to the post of ASI Wireless Operator, the applicant at present has become ineligible to apply for the same. Annexure A-3 is the notification bringing out the above changes in the Recruitment Rules. It is pointed out that the selection is about to commence and the applicant vide his representation Annexure A-4, requested for relaxation in the prescribed service/experience mentioned in the amended Recruitment Rules so that he may be in a position to participate in the selection, but so far he has not been communicated anything by way of reply.

2. On behalf of Respondents No. 1 and 2, proxy counsel for Mr. S. Radhakrishnan appeared. According to her, none of the legal rights as claimed by the applicant have been violated. In line with the general trend the rules have been amended so as to ensure that only persons with adequate experience be brought to the purview of selection/promotion. The rules as amended could not have been considered as violating any of his fundamental rights as the Rule making authority's power is not disputed.

3. It has not been possible for the applicant to make out a case for exercise of discretionary jurisdiction. We close the application with a direction to the 1st respondent to advise the applicant of the decision taken in respect of his request for exemption/relaxation, and whether such request is tenable. This may be done, as far as possible in two months' time from today.

4. O.A. is disposed of in the above terms. No costs.

(Dated, the 1st February, 2010)


K. NOORJEHAN
ADMINISTRATIVE MEMBER


JUSTICE M. RAMACHANDRAN
VICE CHAIRMAN