

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A.No.94/2002.

Monday this the 4th day of February 2002.

CORAM:

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

K.A.Mohammedkunju, Kureekattil House,  
Kaintikkara, Muppathadam P.O., Aluva. Applicant

(By Advocate Shri N.N.Sugunapalan)

Vs.

1. Union of India, represented by the  
Secretary, Ministry of Defence,  
New Delhi.
2. The Flag Officer Commanding-in-Chief,  
Headquarters, Southern Naval Command,  
Kochi-682 004.
3. The Chief Staff Officer (P&A),  
Naval Headquarters, Southern  
Naval Command, Kochi-4. Respondents

(By Advocate Shri C.Rajendran, SCGSC)

The application having been heard on 4th February 2002  
the Tribunal on the same day delivered the following:

O R D E R

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

The applicant, holder of an ITI certificate in the trade 'Carpenter' who had undergone Apprenticeship Training in the trade 'Fibre Reinforced Plastics' (FRP for short) in the Apprentice Training School, Naval Ship Repair Yard, Cochin from 1.8.1988 to 31.8.1990 and has been placed in the waiting list, has filed this application impugning the communication dated 8.11.2001 which he received pursuant to his representation dated 29.9.2001 informing him that since there is no vacancy in the trade to consider his request for appointment for the time being, the respondents are not able to appoint him immediately. The applicant had submitted a representation dated 29.9.2001(A7) shortly after the Tribunal had disposed of the

application No.1025/2000 refusing to interfere with the reply given to the applicant on 16.12.1999 (A4) and the above decision of the Tribunal was affirmed by the Hon'ble High Court of Kerala in O.P.No.16744/2001. In the representation the applicant had stated that during the past from 1991 to 1997 many persons from the Shipwright(Wood) have been utilised in Shipwright(FRP) and if the continued operation of that practice is stopped there would be vacancies to accommodate him. In the application the applicant has stated that as the respondents have been filling up the vacancies in Shipwright (FRP) not in accordance with the Recruitment Rules but utilising those from Shipwright (Wood), the statement in the impugned order Annexure A-8 is not true and that the same is liable to be struck down. With these allegations, the applicant seeks to set aside the impugned order and for a direction to the respondents to consider the applicant for engaging him in the available vacancy of Shipwright (FRP).

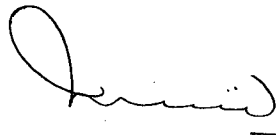
2. Having heard the learned counsel of the applicant and Shri C.Rajendran, Senior Central Government Standing Counsel appearing for the respondents and on a perusal of the material placed on record, we are not satisfied that the applicant has got any valid cause of action. By A-4 dated 16.12.1999, the applicant was informed that there are separate lists for Shipwright (FRP) and Shipwright (Wood) that the vacancies in the respective trades are being filled by ex-Apprentices from respective trades, that as there was only one vacancy in the Shipwright (FRP), the seniormost ex-naval apprentice in the waiting list was being considered and the applicant being the third in the list, he would be considered in his turn. Not satisfied with the disposal of the O.A.1025/2000 by the

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Tribunal, the applicant approached the Hon'ble High Court of Kerala by filing O.P.No.16744/2001 challenging the order of the Tribunal and the Hon'ble High Court disposed of the O.P. agreeing with the decision of the Tribunal finding that there was no reason to interfere with A-4 as the applicant was not in a position to show that there was any existing vacancy. In this application the applicant has no case that after the disposal of O.P. by the Hon'ble High Court any vacancy has arisen. On the contrary, his case is that, if the separate list system had been correctly followed in the past, there would have been vacancies for accommodating him. The applicant has not challenged the method of filling up of the vacancies during 1991 to 1997. The applicant's challenge to A-4 order intimating that, as there was only one vacancy in Shipwright (FRP), that the seniormost in the waiting list was being considered and that the applicant being third in the list, would be considered on his turn, was unsuccessful in O.A.1025/2000 as also in O.P.16744 of 2001. Since the applicant has no case that after Annexure A-4 any vacancy has arisen, we do not find any legitimate cause of action which enables the applicant to maintain this application.

3. The application is, therefore, rejected under Section 19(3) of Administrative Tribunals Act, 1985.

Dated the 4th February, 2002.



T.N.T. NAYAR  
ADMINISTRATIVE MEMBER



A.V. HARIDASAN  
VICE CHAIRMAN

A P P E N D I X

Applicant's Annexures:

1. A-1: True copy of certificate issued from the Apprentices Training School, Naval Ship Repair Yard, Cochin to the Applicant.
2. A-2: True copy of Recruitment Rules for the post of Tradesman (Skilled) published as SRO 338 S.No.3 dated 19.11.79 and letter No.208.89 dated 30.9.89 of the Naval Headquarters, Cochin.
3. A-3: True copy of representation dated 15.11.99 submitted by the applicant before the 2nd respondent.
4. A-4: True copy of reply dated 16.12.1999 received by the applicant from the 2nd respondent.
5. A-5: True copy of the order of this Hon'ble Tribunal in OA 1025/2000.
6. A-6: True copy of the judgement of the Hon'ble High Court of Kerala in OP No.16744/2001.
7. A-7: True copy of representation dated 29.9.2001 submitted by the applicant before the 2nd respondent.
8. A-8: True copy of Communication No.CS 2765/33 dated 8.11.2001 issued by the 2nd respondent to the applicant.

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