

CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O.A.No.117/97

Wednesday this, the 29th day of January, 1997.

CORAM:

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

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

P.I.Abdul Salam,
Unskilled Worker,
Lakshadweep Harbour Works Division Office,
Kavaratti.

Applicant

(By Advocate Mr. P.V.Mohanan)

vs.

1. The Deputy Chief Engineer,
Lakshadweep Harbour Works,
Kavaratti.
2. The Secretary,
Ministry of Surface Transport,
Government of India, New Delhi.
3. The Administrator,
Union Territory of Lakshadweep,
Kavaratti.

..Respondents

(By Advocate Mr.S.Radhakrishnan, ACGSC)

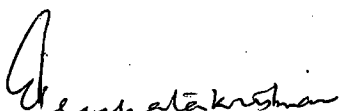
O R D E R

A.V.HARIDASAN, VICE CHAIRMAN:

Applicant who is qualified to be appointed as a Draftsman and Tracer and has been engaged as apprentice from August, 1993 and thereafter appointed on contract basis from 21.7.95 as an unskilled worker is aggrieved by the fact that though his name was sponsored by the Employment Exchange for selection for appointment as Tracer Ferro Printer, the respondents are refusing to consider his candidature on the ground that he has crossed the upper age limit and that the respondents are also not regularising his services as a worker in the Lakshadweep Harbour Works Department. As the reliefs claimed in sub paras (i) to (iii) of para 8 are not related to one another,

learned counsel restricts his claim to the prayer contained in sub-
paras (ii) and (iii) of para 8. We have considered this and heard
the learned counsel on either side. The method of recruitment to
the post of Tracer is by direct recruitment and the method of
recruitment to the post of Draftsman is by promotion and direct
recruitment. The upper age limit for direct recruitment either as
Tracer or as Draftsman is 25 years relaxable in the case of
departmental candidates upto the age of 35 years. The applicant
claims that he is a departmental candidate and therefore he being
below 35 years of age, he is entitled to be regularised. We are not
in a position to accept the claim of the applicant as correct. The
applicant is not holding a post in the establishment but he is working
only as a contract labourer. Thus he cannot be considered as a
departmental candidate. The arguments based on the ruling of the
Supreme Court in Catering Cleaners of Southern Railway vs. Union
of India and another reported in AIR 1987 SC 777 does not advance
the case of the applicant in this case. It cannot be understood from
the said ruling that the Supreme Court has held that in all cases,
where the employer has engaged a contract labourer, he is entitled
to be absorbed on a post. The observations of their Lordships of
the Supreme Court in that case does not lay down any law, but was
made in the facts and circumstances of that case. Declaration of law
of general application alone is to be taken as a declaration under
Article 141 of the Constitution. Therefore, the observations made
in the judgment quoted above has no applicability to the facts on
hand. We are of the considered view that there is no merit in the
application and therefore, we reject the application, leaving the parties
to bear their own costs.

Dated the 29th January, 1997.


P.V. VENKATAKRISHNAN
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN