

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

ORIGINAL APPLICATION NO. 126 OF 2009

Dated the 18th August, 2009

CORAM:-

**HON'BLE Dr. KBS RAJAN, MEMBER (JUDICIAL)
HON'BLE MR. K GEORGE JOSEPH, MEMBER (ADMINISTRATIVE)**

Devika PP,
D/o late KK Venugopal
Working as Salesman,
National Institute of Fisheries Post
Harvest Technology and Training
(NIFPHATT) Cochin-682 016.
(Residing at Lakshmi, AGK Temple Road,
Chengampuzha Nagar, PO- Edappally,
Cochin-33.

.. **Applicant**

[By Advocate: Mr PV Mohanan]

-Versus-

1. **The Director,**
National Institute of Fisheries Post
Harvest Technology and Training,
Cochin-16.
2. **Union of India,**
Represented by its Secretary,
Ministry of Agriculture, Department of Animal
Husbandry and Dairying, Krishi Bhavan,
New Delhi.

...**Respondents**

[By Advocates: Mr. CM Nazar, ACGSC]

This Original Application having been heard on 3rd August, 2008 the
Tribunal delivered the following -

ORDER

[Hon'ble K.G. Joseph, A.M.]

The applicant who belongs to the Other Backward Classes (OBC) is working as Salesman in the National Institute of Fisheries Post Harvest Technology and Training (for short NIFPHATT) since 25.7.87. Even after 21 years of experience and necessary educational qualification she has not been considered for selection and appointment for the post of Marketing Assistant or Processing Assistant.

2] Pursuant to Annexure-A/7 advertisement for filling up the post of Marketing Assistant the applicant had applied but her application was not considered on the ground that she is over aged. As the applicant belongs to the OBC category the age limit is 43 years and the applicant is now aged 46 years and thus ineligible for consideration for selection and appointment to the post notified.

3] The contention of the applicant is that in 1998 there was a vacancy for which she could have been considered but that was not done. According to the respondents, the post that fell vacant in 1998 was filled up by promoting another person who was the only candidate in the feeder category. The vacancy that arose in 2006 is sought to be filled up now. The re-organization of the Institute and ban on appointment came in the way of filling up the vacancies in time. It was pointed out by the respondents that she is the beneficiary of ACP Scheme which is specifically made for stagnating employees and that she does not have any legitimate right for special dispensation or relaxation for considering her against a post for which she is ineligible being over-aged. The nature of duties and method of recruitment to the post of Marketing Assistant and to the post of Processing Assistant are entirely different.

4] It is quite understandable that the number of vacancies may undergo a change by reorganization or may not be filled up on account of the ban on appointment imposed by the Government in financial emergencies. No employee



can claim promotion as a matter of right, but every employee has got a legitimate expectation to get two or three promotions in his career extending over three decades. The ACP scheme which provides financial benefit is not a substitute for promotion it is only a palliative measure. It is good human resources management to motivate employees for greater productivity by meeting their legitimate expectations in respect of promotion. The applicant is without a promotion for the last 21 years. When she was within age limit, for one reason or other, it was not possible for the respondents to consider her name for promotion. When the situation improved she became over aged. Such a situation should elicit a sympathetic and proactive response from the NIFPHATT towards their employees. The Government can relax any criterion for being eligible to be considered for promotion in deserving cases. The respondents should make sincere efforts to get age relaxation in the case of the applicant as she could not be promoted when she was within the age limit for various administrative reasons, provided she is eligible otherwise. They should move the Government within one month of receipt of a representation in this regard from the applicant.

5] With the above direction this OA is disposed of. No order as to costs.

Dated the 18th August, 2009



(K George Joseph)
Member (Administrative)



(Dr. K.B.S. Rajan)
Member (Judicial)

stn