

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO.127/2010

Dated this the 19th day of November, 2010

C O R A M

**HON'BLE MR JUSTICE K. THANKAPPAN, JUDICIAL MEMBER
HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER**

Kunhyiseedi koya
Upper Division Clerk
Government Senior Secondary School
Kiltan island, U.T. Of Lakshadweep Applicant

By Advocate M/s Sukumaran & Usha rep. By Ms S. Karthika
Vs

- 1 Union of India represented by
its Secretary to
Government of India
Ministry of Home Affairs
New Delhi.
- 2 Union Territory of Lakshadweep
represented by its Administrator
Office of the Lakshadweep
Administration, Kavaratti.
- 3 Departmental Promotion Committee
for promotion to the post of Tahsildar
Assistant Settlement Officer
U.T. Of Lakshadweep, Kavaratti
represented by its Chairman
Collector-cum-Development Commissioner,
U.T. Of Lakshadweep
Kavaratti. Respondents

By Advocate Mr S. Rdhakrishnan for R 2 & 3
Ms Deepthi Mary Varghese ACGSC for R-1

ORDER

HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

The grievance of the applicant, an Upper Division Clerk in the Senior Secondary School, Kiltan Island, is that though he was promoted to the post of UDC on ad hoc basis, the respondents did not convene DPC in time, as a consequence, he does not have the 10 years regular service as UDC to be considered for promotion to the post of Assistant Settlement Officer.

2 The applicant entered service as Lower Division Clerk on 14.3.1988, he was promoted to the post of Upper Division Clerk on ad hoc basis on 11.11.1994. The grievance of the applicant is that on completion of 8 years of service on 14.3.1996, he is entitled to be regularised in the post of UDC but the DPC did not meet, as a consequence his seniority was counted only w.e.f. 28.8.2000, the date of the DPC, instead of 14.3.1996. Relying on the judgment of the Tribunal in O.A. 86/1994 he submitted representations (A-1) which is still pending consideration of the respondents. On 30.10.2009 the Administration issued circular proposing to fill up three posts of Assistant Settlement Officer/Tahsildar by promotion from among UDC having 10 years of regular service in the grade (A-2). The applicant possesses all the qualifications required for holding the post. As per the directions of the Tribunal in O.A. 86/94 he is entitled to get seniority on completion of 8 years of service i.e. with effect from 14.3.96. He submitted another representation(A-3). He apprehends that the DPC is being held to prepare a select list for effecting appointment to the post of ASO from among various categories including persons mentioned in A-5. Aggrieved by the delay in

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regularising his service as UDC, he has filed this O.A to direct the respondents to regularise his service in the post of UDC and assign seniority w.e.f. 14.3.1996 with all consequential benefits.

3 The respondents filed reply statement contending that the method of recruitment to the post of UDC is by 75% promotion from LDCs and similar grade who have passed the Departmental test conducted by the Administration and completed 8 years grade in LDC (Annex R2(a). The applicant had passed the test in 1991 and he was promoted to the grade of UDC before completion of 8 years of service on ad hoc basis. They submitted that the delay in convening of the DPC was due to non availability of service details of the employees, which was available in 1997 only for which the case of the applicant was recommended by the DPC which met in 2000(R-2(b). They submitted that there were 8 vacancies in the year 1996 against which 8 persons senior to the applicant were promoted on regular basis and the case of the applicant was considered against 13 vacancies which arose in 1997, his name was recommended by the DPC. Further, they submitted that for the post of ASO, 50% promotion is from 50% from Revenue Inspector /Head draftsman having 10 years regular service failing which from the post of UDC, UDC cum Storekeeper, Stenographer Grade-III having 10 years regular service in the grade. They submitted that they received 8 applications including the applicant and that the applicant has less than 10 years regular service and that three are three candidates senior to the applicant and that the selection of candidates is not finalised so far.

4 We have heard learned counsel appearing for the parties and perused the documents produced before us.

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5 The short question that comes up before us is whether there is undue delay in convening the DPC for promotion to the post of UDC on regular basis and whether the delay in holding the DPC has affected applicant adversely.

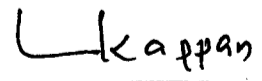
6 Admittedly, there was delay in convening the DPC. Though he was eligible to be promoted on regular basis w.e.f. 14.3.96, all the vacancies occurred in 1996 were filled up by his seniors. The vacancies were available in 1997 and he was recommended by the DPC which met in 2000. Therefore, he has a right to be appointed as UDC on regular basis w.e.f the occurrence of the vacancy in 1997 as per his rank in the select list.

7 In this view of the matter, we are of the opinion that the applicant should not suffer for the delay in convening the DPC. Therefore, we declare that the applicant having found fit for promotion as UDC by the DPC, he has to be regularised notionally with effect from the date of occurrence of the second vacancy in 1997. We direct the respondents to do so, at the earliest, so that he becomes eligible for consideration for promotion to ASO and his name is included in the list to be placed before the duly constituted DPC for recommendation. The O.A is allowed as above. No costs.

Dated 19th November, 2010


K. NOORJEHAN
ADMINISTRATIVE MEMBER

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JUSTICE K. THANKAPPAN
JUDICIAL MEMBER