

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

DATE OF DECISION

:

30.11.1989

P R E S E N T

HON'BLE SHRI S.P MUKERJI, VICE CHAIRMAN

&

HON'BLE SHRI A.V HARIDASAN, JUDICIAL MEMBER

ORIGINAL APPLICATION NO. 14/87

1. K.V Rajan
2. P.V Paily
3. P.R Sahadevan
4. A.Mohammed Yousuff
5. P.K.Dinesan
6. T.J.Henry
7. P.P Chakran

.. Applicants

v.

1. Flag Officer, Commanding-in-Chief,  
Southern Naval Command, Naval Base, Cochin.
2. The Officer-in-Charge, Base Repair Organisation,  
Naval Base, Cochin.
3. The Conservator, Cochin Port, W.Island, Ernakulam.
4. Union of India, represented by Ministry of  
Defence, New Delhi-110 001.

.. Respondents

Mr.K.R.B Kaimal

.. Counsel for the  
applicants

Mr.P.V.M.Nambiar, SCGSC

.. Counsel for R1,  
2 & 4.

M/s. J.B Koshy and  
E.K Nandakumaran

.. Counsel for R3.

O R D E R

Shri S.P Mukerji, Vice-Chairman

In this application dated 22.12.1986 filed  
under Section 19 of the Administrative Tribunals Act, the  
seven applicants who are working as Sukhani, Tindal of  
Lascar and as Lascars plying boats in the Base Repair  
Organisation of Cochin Naval Base, have prayed that the  
orders in the nature of the one at Annexure IV rejecting  
their representations for promotion as Syrang of Lascars

should be set aside and that respondents 1 and 2 directed to promote and appoint them as Syrangs for the motor boats and to reconsider their representations like the one at Annexure-III. The material facts of the case are as follows.

2. The applicants are engaged to operate five motor boats held in the Yard Craft Organisation of the Base Repair Unit of the Naval Base at Cochin. In accordance with the Cochin Harbour Crafts Rules, 1947 such boats with engines with less than 226 BHP are required to be operated when there is on board a master with Syrang Certificate of Mercantile Marine Department(MMD). The grievance of the applicants is that in violation of the aforesaid rules, respondents 1 and 2 are operating these boats under the charge of Tindal/Sukhani, who do not possess MMD Certificate, while the applicants with such Certificates have been engaged in lower capacities. They have referred to the decision of the Kerala High Court(Annexure I & II) in which it was held that the qualification prescribed in the Cochin Harbour Crafts Rules have to be followed strictly. Their representations of being appointed as Syrangs incharge of these boats on the basis of seniority amongst the MMD licence holders have produced no results. They have also indicated that the boats are being plied by masters without MMD Certificates without even relaxing the rules of the Mercantile Marine Department. The

respondents have recognised the statutory requirements and indicated that "a case was taken up for upgrading corresponding number of posts of Tindal of Lascars to Syrang of Lascars by this organisation. This aspect had also been brought up during the last Naval Standing Establishment Committee review carried out on 19th February, 1984. The NSEC had accepted the proposal...

... However, Government sanction for upgrading the posts have not so far been received". The additional posts of Syrangs in lieu of Tindal of Lascars were not sanctioned. In the counter affidavit filed by the respondents a sense of helplessness has been expressed stating that "while the appointment of Syrang of Lascars with MMD certificate is essential under the Cochin Harbour Craft Rules, 1947 (promulgated by Ministry of Transport) in the absence of the vacancies and availability of requisite number of Syrangs with MMD Certificates, the appointment of Tindal of Lascars as coxswain of Naval boats is not considered illegal...". Nothing has been stated by the respondents to indicate that formal orders relaxing the rules in their favour has been issued.

3. We have heard the arguments of the learned counsel for both the parties and gone through the documents carefully. We feel that the requirements of the Cochin Harbour Crafts Rules, 1947 issued by the Central Government in exercise of powers conferred under Section 6(1)(k) of the Indian Ports Act, 1908 have not been followed properly inasmuch as

Syrangs holding MMD Certificates have not been placed incharge of the five motor boats. The recommendations made by the Naval Standing Establishment Committee in this respect for upgrading the post of Tindal of Lascars to Syrang of Lascars also has not yet been <sup>disposed of</sup> ~~sanctioned~~. When ~~there are~~ persons like the applicants possessing MMD Certificates, as admitted by the respondents themselves, operating the same boats are available, to place these boats incharge of non-Certificate holders in violation of the <sup>✓</sup> This also exposes the applicants to hazardous working conditions. A rules, is legally indefensible. <sup>^</sup> This also leads to demoralisation of the personnel in the Yard Craft Organisation. We would, therefore, close this application with the direction that the respondents should take within three months from the date of communication of this order final decision <sup>✓</sup> of the recommendation of the NSEC for upgrading the posts of Tindal of Lascars to Syrang of Lascars and consider the applicants <sup>for holding of</sup> ~~to hold~~ such posts on the basis of their seniority-cum-merit-cum-suitability. There will be no order as to costs.



(A.V. HARIDASAN)  
JUDICIAL MEMBER



(S.P. MUKERJI)  
VICE CHAIRMAN

30.XI.89.

n.j.j