

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.NO.141/2002

Tuesday, this the 7th day of January, 2003.

CORAM;

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

HON'BLE MR T.N.T.NAYAR, ADMINISTRATIVE MEMBER

1. K.R.Rajasekharan Pillai,
Store Checker/Identifier,
Naval Armament Depot,
Aluva.
2. C.A.Joseph,
Store Checker/Identifier,
Naval Armament
3. V.T.Joshy,
Ammunition Store Labourer,
Naval Armament Depot,
Aluva.
4. K.M.Varkey,
Ammunition Store Labourer,
Naval Armament Depot,
Aluva. - Applicants

By Advocate Mr NN Sugunapalan

Vs

1. General Manager,
Naval Armament Depot,
Aluva.
2. The Flag Officer Commanding-in-Chief,
Headquarters,
Southern Naval Command,
Kochi-682 004.
3. The Chief of Naval Staff,
Naval Headquarters,
New Delhi.
4. Union of India represented by
the Secretary,
Ministry of Defence,
New Delhi. - Respondents

By Advocate Mr C.Rajendran, SCGSC

The application having been heard on 7.1.2003 the Tribunal on the same day delivered the following:

O R D E R

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

The applicants four in number, Store Checker/Identifier, working in Naval Armament Depot, Aluva, have filed this application for a direction to the respondents to promote the applicants to the existing vacancies of Assistant Store Keepers in the Naval Armament Depot. According to the Recruitment Rules, 25% of the vacancies of Assistant Store Keepers are to be filled by promotion of semi-skilled labourers who have experienced in store work with 5 years of continuous work in the grade after appointment on regular basis and passing middle school standard certificate and who have qualified in the Departmental examination. All the applicants possess the requisite qualification, length of service and have also passed in the qualifying examination. The grievance of the applicants are that the vacancies for promotion are not being filled in accordance with the rules. According to the applicants, those who have qualified in the examination should have been considered for promotion without waiting for those seniors who have not qualified in the examination.

2. The respondents in their reply statement contend that it is not correct that several vacancies exist in the promotion quota, that out of six vacancies which presently exist, one is to be filled by promotion, and that all those in the feeder grade would be considered for promotion on the basis of seniority subject to qualifying in the departmental qualifying examination in terms of the Recruitment Rules.



O R D E R

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

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2. The respondents in their reply statement contend that it is not correct that several vacancies exist in the promotion quota, that out of six vacancies which presently exist, one is to be filled by promotion, and that all those in the feeder grade would be considered for promotion on the basis of seniority subject to qualifying in the departmental qualifying examination in terms of the Recruitment Rules.

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Qualifying departmental examination alone is not the criteria for promotion, but the element of seniority cannot be ignored, contend the respondents. The applicants in their rejoinder have stated that the respondents have not been following the practice of allowing the seniors to qualify the examination at the time of recruitment, but have been promoting those who have passed the examination earlier and that there is no justification for a deviation now.

3. We have heard the learned counsel on either side and have also perused the material on record. Learned counsel of the applicants submitted that as the applicants have already passed the departmental qualifying examination, the respondents have gone wrong in not considering them for promotion, and holding a departmental test for those who have not yet qualified. The learned counsel of the respondents argued that all in the feeder grade with requisite length of service have to be considered for promotion subjecting them to a departmental qualifying examination and not considering the seniors of the applicants for promotion on the ground that they had not already passed the examination earlier and that the applicants have passed it would be a violation of the provisions of the Recruitment Rules. We find considerable force in this argument. Clause 10 of the Recruitment Rules reads as follows:

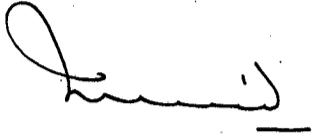
"Promotion: Labourer semi-skilled who have got experience in the stores work with 5 years continuous service in the grade after appointment thereto on regular basis who are in possession of academic Middle School Standard certificate subject to qualifying in a departmental examination."

It is evident from what is quoted above that in the matter of promotion, all labourers semi-skilled who have got experience in the stores work with 5 years continuous service in the grade after appointment thereto on regular basis and who are in possession of academic Middle School Standard certificate are eligible to be considered for promotion subject to their qualifying in the departmental examination. Therefore, it is necessary that the departmental examination should be held simultaneous to the recruitment, although those who have already passed the departmental examination need not be put to a test again. Therefore, the applicants cannot have a legitimate grievance against holding of departmental test enabling the seniors who have ^{75%} ~~got~~ already qualified in the departmental examination held earlier.

4. In the light of what is stated above, we reject the contention of the applicants that they having already passed the departmental qualifying examination are entitled to be considered for promotion, before holding another departmental examination, enabling their seniors, who have not so far qualified in the earlier examination to participate. In the result, the application is disposed of directing the respondents to fill up the available vacancies of Assistant Store Keepers under the 25% quota by considering those in the feeder grade including the applicants strictly in accordance with the Recruitment Rules after holding a departmental

qualifying examination for whose who have not earlier qualified for the same. There is no order as to costs.

Dated, the 7th January, 2003.


T.N.T. NAYAR
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

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A P P E N D I X

Applicant's Annexures:

1. A-1: True copy of notification dated 10.2.1997 issued by the 1st respondent inviting application for departmental test for promotion to the post of Assistant Store Keeper.
2. A-2: True copy of test results of the departmental test conducted as per Annexure-A1 published by the 1st respondent.
3. A-3: True copy of the representation submitted by the 1st applicant before the respondents.
4. A-4: True copy of the representation submitted by the 3rd applicant before the respondents.
5. A-5: True copy of the representation submitted by the 4th applicant before the respondents.
6. A-6: True copy of the reply dated 22.8.2001 issued by the 1st respondent to the applicants.
7. MA-I: True copy of Establishment Memo No.12/2002.
8. MA-II: True copy of the office Memorandum dated 8.2.1982 No.22011/2/79 Estt(D) dated 8.2.82.

Respondents' Annexures:-

1. R-1: True copy of letter No.CS 2700/16 dated 13th Aug, 2001 issued by the Headquarters, Southern Naval Command, Kochi.

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