

Final Order
16-6-1987

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

Original Application No.16/87

P. Manoharan

: Applicant

Versus

1. Union of India represented by the Secretary to the Ministry of Agriculture, New Delhi.
2. Director, Central Institute of Fisheries, Nautical & Engineering Training, Dewans Road, Cochin-682016.

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Respondents

M/s K. Ramakumar/CP Ravindranath and EM Joseph

: Counsel for Applicant

Shri K. Karthikeya Panicker ACGSC

: Counsel for Respondents

CORAM

Hon'ble Shri Birbal Nath : Administrative Member
Hon'ble Shri G. Sreedharan Nair: Judicial Member

ORDER

(Pronounced by Hon'ble Shri Birbal Nath, Administrative Member).

Shri P. Manoharan, currently working as Chief Engineer Grade-I, Central Institute of Fisheries, Nautical & Engineering Training, Cochin, in an adhoc capacity, vide his application No. OA 16/87 filed before the Tribunal has prayed that the Respondents be directed to consider the candidature of the applicant

for the post of Chief Engineer Grade-I pursuant to Annexure-B, letter No.13-8/86-Adm dated 2.12.86 inviting applications for filling up of the post of Chief Engineer Grade-I, Group-B in Central Institute of Fisheries, Nautical & Engineering Training, Cochin on deputation basis and further to declare the same Annexure to be unconstitutional and void.

2. The applicant has claimed that he has 15 years experience in Fishing Vessels and hold certificate of competency issued by the Mercantile Marine Department, ^{Govt} Government of India, which entitled to work as Chief Engineer in any Fishing Vessel. He joined the service of Central Institute of Fisheries, Nautical & Engineering Training (hereinafter called as CIFNET) in the year 1975 and has been working as Chief Engineer(adhoc) from 28.5.1980. Thus he was fully qualified to hold the post of Chief Engineer Grade-I of the Fishing Vessels. The applicant had reasons to apprehend that his candidature for regular promotion as Chief Engineer Grade-I would not be considered in view ^{of} the condition introduced in Annexure-B that the Departmental Officers in the feeder category will not be eligible for consideration. The applicant averred that he was not

a Departmental Officer in feeder category as

he was holding the post of Chief Engineer, Grade-I
on adhoc basis.

3. In the counter the Respondents have maintained that according to the Recruitment Rules for the post of Chief Engineer Grade-I, the post is required to be filled by promotion of Chief Engineer Grade-II with 7 years regular service in the grade failing which by transfer on deputation of officers under the Central Government or the State Government or Autonomous Institutions holding analogous posts or with five years service any post in the Scale of Rs.700-1300 or equivalent or with 7-8 years service respectively in pay scales of Rs.840-1200/650-1200 prescribed for direct recruits, failing both by direct recruitment. As there was no eligible candidate in the feeder post, it was decided to fill up the post by transfer on deputation, Annexure-B was issued in these circumstances. It was further averred that the applicant was promoted as Chief Engineer(Rs.840-1200), purely on adhoc basis with effect from 28.5.80 to 15.6.80 and from 1.7.80 to 27.8.80. He was reverted as Engine Driver Class-I on some dates and he has been working as Chief Engineer Grade-I on purely adhoc basis from 6.10.86 only. It was further averred that the applicant was not eligible for promotion and also

for deputation as per the Recruitment Rules.

4. We have given thought to the arguments advanced at the Bar. To appreciate the controversy involved, we reproduce Column 10 & 11 of the Rules regulating the method of Recruitment to the post of Chief Engineer Grade-I in the CIFNET. (Exbt.R.2(a)).

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By promotion failing which by transfer on deputation (including short-term contract) and failing both by direct recruitment.

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Promotion

Chief Engineer Grade II with 7 years' regular service in the grade.

Transfer on deputation (including short-term contract).

Officers under the Central Government/State Government or autonomous institutions:

- (a) (i) holding analogous posts; or
- (ii) with 5 years' service in posts in the scale of Rs. 700-1300 or eqvt; or
- (iii) with 7/8 years' service respectively in pay scales of Rs.840-1200/650-1200 or equivalent; and

- (b) possessing the educational qualifications and experience prescribed for direct recruits under column 7.

(The departmental officers in the feeder category who are in the direct line of promotion will not be eligible for consideration for appointment in deputation. Similarly deputationists shall not be eligible for consideration for appointment by promotion.)

It is clear from the above that the post is to be first filled by promotion and second by deputation and third

failing both above by direct recruitment. Evidently the applicant is not qualified to claim promotion as he has not put in 7 years regular service in the Grade of Chief Engineer Grade II. It was argued on behalf of the applicant that he should be considered for deputation because he does not fall in the feeder category in the direct line of promotion although Column 11 ~~thus~~ read "The departmental officers in the feeder category who are in the direct line of promotion will not be eligible" and it is also conceded that the applicant is not in the feeder category who are in the direct line of promotion since he has not been Chief Engineer Grade II. His contention for appointment on Deputation looks to be incongruous because a deputation is from ~~the~~ outside ~~the~~ department and not from within the department. For departmental candidates the avenue of promotion is provided. A rule has to be read so as to bring out a fair meaning. As such we cannot uphold the contention of the applicant that he is eligible for deputation because he is not in the feeder category in ~~the~~ direct line of promotion. At the same time we find that the Respondents have conceded that the applicant possesses the requisite qualification for the post for direct recruitment. Their averment at

page 4 of their Counter ~~is~~ reads as follows:

"Though the applicant possesses the requisite qualifications for the post for direct recruitment, it is to be assessed at that stage of selection through UPSC only".

5. The relief claimed by the applicant cannot be granted in view of the clear stipulation made in the Recruitment Rules and as discussed above, ^{since} he does not fulfil the qualifications prescribed for appointment to the post of Chief Engineer Grade I either by promotion or by deputation. As such the application is hereby rejected. However, the Respondents are directed to keep in view the averment made by them in regard to the applicant's eligibility for direct recruitment to the post in case the same ^b filled neither by promotion nor by transfer or deputation.


(G. Sreedharan Nair)
Judicial Member
16-6-1987


(Birbal Nath)
Administrative Member
16-6-1987

Index: YES/NO

Su.