

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO. 163/2008

this the 7th day of July 2009.

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**HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER
HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER**

P.I. Abdul Nazar S/o Attakoya M.K.
Puthiya Illam house, Kalpeni Island
U.T. Of Lakshadweep, Applicant

By Advocate M/s. P.V. Mohanan & P.N. Biju

VS

1 The Administrator
U.T. Of Lakshadweep,
Kavaratti.

2 Deputy Collector (Head Quarters)
Collectorate,
U.T. Of Lakshadweep.Respondents

By Advocate Mr. S. Radhakrishnan

The Application having been heard on 24.6.2009 the Tribunal delivered the following

ORDER

HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

The applicant working as Junior Engineer (Civil) on contract basis filed this Application for a direction to consider him for appointment to the post of Deputy Surveyor/Draftsman.

2 According to the applicant, he is a Diploma holder in Civil Engineering, completed Chain Survey Test conducted by the Govt. of Kerala, three months Computer Aided Drafting Course, Computer

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Automation and is presently working as Junior Engineer (Civil). He is thus qualified and eligible to be appointed to the post of Deputy Surveyor/Draftsman. Though two vacancies arose in 2003 only one vacancy was notified as there was temporary ban imposed in making appointment. In 2004 a vacancy arose which was notified, selection was held and the applicant was placed at No. 2 in the waiting list. The rank No. 1 who did not possess Diploma was appointed. In the year 2008 two substantive vacancies arose. On 12.2.2008 three vacancies were notified stipulating the age limit between 18 and 25 years relaxable for 5 years for SC/ST. The applicant attained the age of 30 years on 18.10.2005. He filed this Application on the grounds that the delay in filling up the vacancies affected him adversely, had the vacancies notified at the time of occurrence of the post, he having been within the upper age limit would have applied and got selected.

3 Per contra the respondents in their reply statement submitted that they have notified one vacancy each in 2003, 2004 and 2005, selection were conducted and filled the vacancies with the selected candidates. The applicant though was placed in the waiting list, but could not be appointed as the select list candidate did join the post. They further submitted that age relaxation cannot be granted to individual cases and that selections were made in accordance with the recruitment rules in force.

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

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5 The applicant who possessed the requisite qualifications for being selected and appointed to the post of Deputy Surveyor/Draftsman responded to the notifications issued by the Administration from 2003 onwards. Though he was placed in the waiting list, unfortunately he could not get appointment. The case of the applicant is that had the Administration decided to fill up all the vacancies that arose in 2003 in the same year, he could have been appointed. Now that he is over aged, he is not eligible to participate in the selection unless relaxation is granted or age is reckoned as on the date of occurrence of the vacancy. The respondents submitted that age relaxation is granted to islanders and further relaxation cannot be granted to individual cases. It is for the competent authority in the Administration to decide whether to fill up or not to fill up a particular vacancy. It is true that some posts were not filled up due to ban on fresh recruitment and later when it was found that the ban was not applicable to Lakshadweep Administration, the ban was lifted.

6 The applicant who is working as Junior Engineer (Civil) on **contract basis** on consolidated pay in the Department of Science and Technology w.e.f. October, 2005 has no legal right either to seek relaxation in upper age limit over and above the provision in the extant rules or reckon his age limit as on the date of occurrence of the vacancy. His case cannot be equated with that of an employee in the Department seeking promotion/appointment to a particular post with reference to the occurrence of the vacancy. In the notification dated 12.2.2008 the upper age is restricted to 25 years as per GOI orders relaxable for five years for SC/ST candidates. The age shall be determined as on the last date of receipt of the application. The respondents have further submitted that

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the representation of the applicant was rejected on 16.4.2008.

7 In this view of the matter, we are of the view that the applicant does not have any enforceable legal right to be considered for selection and appointment to the post of Deputy Surveyor/Draftsman purusant to Annexure A-3 notification by getting age relaxation than that is granted to islanders. We do not see any merit in the Application it is accordingly dismissed.

Dated 7th July, 2009.


K. NOORJEHAN
ADMINISTRATIVE MEMBER


GEORGE PARACKEN
JUDICIAL MEMBER

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