

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO. 164 OF 2011

Monday, this the 8th day of August, 2011

CORAM:

**HON'BLE Mr.JUSTICE P.R.RAMAN, JUDICIAL MEMBER
HON'BLE Mr. K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

Muhammed Rafeek K
Tally Clerk
Working on Board M.V.Kavarathi
Under the Port, Shipping and Aviation
U.T.of Lakshadweep, Kavarathi
Now residing at Kunnashada House
Androth Island
U.T.of Lakshadweep ... Applicant

(By Advocate Mr. Manzoor Ali K.A.)

versus

1. The Administration of
U.T.of Lakshadweep, Kavarathi
Represented by its Administrator pin – 682 555
2. The Secretary
Port, Shipping and Aviation
U.T.of Lakshadweep, Kavarathi pin – 682 555
3. The Director
Port, Shipping and Aviation
U.T.of Lakshadweep, Kavarathi pin – 682 555 ... Respondents

(By Advocate Mr. S.Radhakrishnan)

The application having been heard on 08.08.2011, the Tribunal on the same day delivered the following:

ORDER

HON'BLE Mr.JUSTICE P.R.RAMAN, JUDICIAL MEMBER

The applicant has filed this OA when he was working as Tally Clerk at Port, Shipping and Aviation. During the pendency of the OA, the Recruitment Rules were amended and the applicant was promoted to the post of Port Assistant, Grade B. However, his contention in the OA is that as per the then existing hierarchy, of posts of Tally Clerk will have a chance of being

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promoted to the post of Shipping Inspector and then to Cargo Superintendent and then as Welfare Officer. In 2010, two posts of Welfare Officer became vacant. According to him, the feeder category for promotion to the post of Welfare Officer as per the then existing rules is Cargo Superintendent and if the eligible candidate is promoted, the resultant vacancy in the Cargo Superintendent could have been filled up by promoting a Shipping Inspector and thereafter the resultant vacancy of Shipping Inspector could be filled up considering the claim of the applicant as Tally Clerk. Thus, this OA is filed not based on any existing right but contingent upon several factors. True, a person could expect a promotion when a vacancy in the promoted category arises. His promotion at the relevant time could only be as Shipping Inspector. There is no case for him that the vacancy of Shipping Inspector was available to consider the claim for promotion of Tally Clerk like the applicant. According to him, if timely action is taken to fill up higher posts, he had a chance to become Shipping Inspector. There is no such right to contend that he is entitled to be promoted as Shipping Inspector in the absence of any actual vacancy arising. During the pendency of the OA, Recruitment Rules has been amended whereby Tally Clerks are now entitled to be promoted as Port Assistant, Group 'B' and then as Port Assistant Group 'A' which is the feeder category for further promotion as Welfare Officer. Even though the applicant alleged that the delay on the part of the respondents in not filling up the post of Welfare Officer thereby denying him a chance of being promoted as Shipping Inspector on an earlier date, the respondents rightly submits that the post of Cargo Superintendent were amalgamated with that of Welfare Officer and re designated as Assistant Directors as per the new rules. In view of the change that is affected by the Recruitment Rules naturally they could not fill up the post of Welfare Officer. This explanation offered is quite satisfactory and no motive could be attributed for the delay in not filling up the post of Welfare Officer. The representation made by the applicant has since been considered by Annexure R-1(b) order. In the light



of what is stated above and in so far as there is no enforceable legal right for promotion to the post of Shipping Inspector in the given circumstances as there was no vacancy for the post of Shipping Inspector then. The OA is devoid of any merit. In the circumstances, the same is **dismissed**. The interim order is not to effect promotions to the post of Shipping Inspector is vacated. No costs.

Dated, the 8th August, 2011.



K GEORGE JOSEPH
ADMINISTRATIVE MEMBER



JUSTICE P.R. RAMAN
JUDICIAL MEMBER

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