

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH, ERNAKULAM**

ORIGINAL APPLICATION No. 200/2013

~~..MONDAY...~~ this the ~~29th~~ day of ~~September~~, 2014

CORAM:

HON'BLE Mr. M.KANTHAIAH, JUDICIAL MEMBER
HON'BLE Mr. P.K.PRADHAN, ADMINISTRATIVE MEMBER

- 1 M.Basheer, s/o Shahul Hameed, aged 56 years,
Vaalayilveedu, Piravanthur, Pathanapuram,
Retired Civilian Motor Driver (CMD) Grade-I,
INHS Sanjeevani, Naval Base, Kochi -682 004.
 - 2 Joseph Paul, s/o Paul, aged 60 years,
Thuravassrill House, Muvattupuzha,
Retired Civilian Motor Driver (CMD) Grade-I,
INHS Sanjeevani, Naval Base,
Kochi -682 004.
- Applicants**

(By Advocate Mr. C.A.Chacko)

- 1 Union of India, Represented by Secretary to
Central Government, Ministry of Defence,
New Delhi -110 001.
 - 2 The Flag Officer Commanding-In-Chief,
Southern Naval Command, Kochi -682 004.
 - 3 The Commodore, Chief Staff Officer (P&A),
Headquarters, Southern Naval Command,
Kochi -682 004.
- Respondents**

(By Advocate Mr. Sunil Jacob Jose, SCGSC)

The application having been heard on 24.09.2014, the Tribunal
on 27.09.2014 delivered the following:-

ORDER

HON'BLE Mr. M.KANTHAIAH, JUDICIAL MEMBER

The applicants have filed this OA seeking directions to the respondents 1 & 2 for grant of promotion to the post of Civilian Motor Driver (CMD) Special Grade which is now renamed as Foreman of Transport with retrospective effect from 2/4/2012 with all consequential benefits stating that their juniors have now been

granted promotion and they are also entitled for the same and their representations are still pending without any orders.

2 The respondents have filed the reply statement denying the claim of the applicants stating that without fulfilling the eligibility criteria of passing the Departmental Qualifying Test (DQT), seeking such claim for promotion is not at all maintainable.

3 The applicants have filed rejoinder and respondents also filed additional reply to it.

4 Heard both the counsel.

5 The point for consideration is whether the applicants are entitled for promotion, as prayed.

6 The brief facts of the case are that applicants 1 & 2 are appointed as Civilian Motor Driver (ordinary Grade) in the month of May 1989 and after having more than 23 years of service retired from service on 31/5/2012 on attaining superannuation. In the seniority list of Civilian Motor driver (CMD) prepared by the 2nd respondent, the 1st applicant was ranked at Sl.No.15 and 2nd applicant at Sl.No.16. While the applicants were in service the 3rd respondent issued order dated 2/4/2013 promoting CMD Grade-I employees to CMD Special Grade, now renamed as Foreman of transport wherein junior of the applicants who ranked at Sl.No. 17 in seniority list A2 was promoted. Thereafter the applicants made their individual representations dated 25/5/2012 to the 2nd respondent requesting him to promote them to the post of CMD Special Grade on the ground that their junior has been given promotion to the post of CMD Special Grade and they are

also entitled. The said representations are pending without any order. It is also not in dispute that the applicants had the experience of attending Departmental Qualifying Test on earlier occasions for the post of CMD Grade-II and CMD Grade-I.

7. It is the case of the applicants that while they were engaged in the driving duty of Commanding-In-Chief and they were not intimated the date and time of the test stating that the test was very simple and conducted for namesake. Further, when their junior was promoted w.e.f. 2/4/2012, they are also entitled for promotion on par with their junior. The respondents have denied the same and stated that as per the recruitment rules for Civilian Motor Drivers Special Grade, promotion to the Grade is given to those fulfilling the eligibility criteria of 3 years regular service as Civilian Motor Driver Grade -I with passing the Qualifying test for driving heavy vehicles. Annexure R-1 is copy of Gazette Notification). In order to effect promotion to various grades including the civilian Motor Driver Special Grade, the 3rd respondent had conducted Departmental Qualifying Test (DQT) in respect of Boat Crew, Civilian Motor Drivers and Fire Fighting staff on 21/12/2011 after calling for applications on or before 15/10/2011 for participating in the Departmental Qualifying Test vide HQ Southern Naval Command memorandum dated 16/09/2011 (Annexure R-2). Annexure R-2 dated 16/9/12 reveals that the test will be conducted during November, 2011 and invited applications from eligible candidates who are desirous of appearing Departmental Test be obtained and forwarded to HQ on or before 15/10/11 for further necessary action.

8 They stated that the said Memorandum was circulated to all

Units under Southern Naval Command and pasted on the Notice Boards of concerned Naval Units. They further stated that the applicants were on the posted strength of Material Organisation, Kochi and attached with INS Venduruthy. INS Venduruthy is having a section namely Motor Transport Pool (MT Pool) and CMDs including the applicants are directly attached with MT Pool under the administrative control of INS Venduruthy. They also further stated that DQTs are regularly conducted by the 3rd respondent and notifications for the same is being placed on the notice boards at the Administrative Block as well as MT Pool of INS Venduruthy for information of all concerned. Inspite of the Memorandum having been publicly displayed by pasting on the Notice Boards of Administrative block as well as MT Pool of INS Venduruthy which is the routine procedure to inform CMDs of all the units and when all other colleagues had participated in the DQT having been informed similarly, it is the responsibility of the applicants to participate in the DQT by submitting their applications in time and qualifying in the DQT. Without passing the DQT, the mandatory requirement for promotion, they are not entitled for any promotion. It is also the case of the respondents that CMDs belonging to the Units of the applicants herein responded to this notice by submitting applications in time and thus stated that it is not open to the applicants to state that they are not aware of the DQT. It is also the case of the respondents that the applicants had underwent such DQT for their promotion to the post of CMD Grade-II & I respectively.

9 It is not in dispute that as per the recruitment rules the eligibility criteria for promotion to the post of CMD Special Grade, CMD Grade-I with 3 years of regular service in such CMD Grade-I with

passing the departmental qualifying test for driving heavy vehicles are required. It is also not in dispute that respondents issued notices in order to effect promotion to various posts including Civilian Motor Driver Special Grade. The 3rd respondent had conducted the Departmental Qualifying Test along with for two other Grades after circulation of a Memorandum to all the concerned. In pursuance of the said Memorandum, 64 CMDs including the CMDs on the posted strength of Zamorin Ezhimala submitted applications for participating in the DQT. 19 out of 43 Grade- I including individuals from the parent units and attached units participated in the test for civilian Motor Driver Special Grade. The CMDs belonging to the unit of the applicants also responded to the notice by submitting their applications in time, is not in dispute. All these circumstances clearly establish that the authorities have circulated the memorandum in respect of conducting the Departmental Qualifying Test for the post of CMD Special Grade, inviting applications from eligible candidates and thereafter finalised the selection. Admittedly, the applicants have not responded to the said memorandum and without qualifying the Departmental Qualifying Test, seeking promotion on the ground that their junior has been promoted to the post of CMD Special Grade which is now renamed as Foreman of Transport, is not at all valid and justifiable. In respect of their claim that they were not intimated in respect of such selection or they are not aware of such selection is not at all convincing since many of the CMDs including the CMDs belonging to the unit of the applicants participated in the selection and they also participated for such DQT for their earlier promotions.

application of the applicants to seek promotion and as such O.A. is liable for dismissal.

11 In the result, OA is dismissed. No order as to costs.

(Dated, this the 29th day of September, 2014)



(P.K.PRADHAN)
ADMINISTRATIVE MEMBER



(M.KANTHIAH)
JUDICIAL MEMBER

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