

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.208/2003.

Thursday this the 29th day of May 2003.

CORAM:

HON'BLE MR.T.N.T NAYAR, ADMINISTRATIVE MEMBER
HON'BLE MR.K.V.SACHIDANANDAN, JUDICIAL MEMBER

K.G.Bahuleyan,
Lascar I Class,
Naval Ship Repair Yard,
Kochi.

Applicant

(By Advocate Shri Mohan Pulikkal)

Vs.

1. The Flag Officer Commanding-in-Chief,
Southern Naval Command,
Naval Base Kochi.

2. The Commodore Superintendent,
Naval Ship Repair Yard,
Kochi-682 004.

3. The Union of India, represented by
the Secretary,
Ministry of Defence,
New Delhi.

Respondents

(By Advocate Shri C.Rajendran, SCGSC)

The application having been heard on 29th May 2003,
the Tribunal on the same day delivered the following:

O R D E R

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

The applicant Shri K.G.Bahuleyan, is working as Lascar I Class, in the Naval Ship Repair Yard (NSRY for short), Cochin. By this O.A. he seeks a direction to the respondents to consider him for promotion to the post of Syrang of Lascar against one of the existing vacancies along with other eligible Lascars I Class particularly, the applicants in O.A.689/00. The applicant is aggrieved specifically by the communication dated 18.2.2003 from the 2nd respondent (A-12) rejecting the applicant's representation dated 13.1.2003(A-10). The applicant relies on this Tribunal's findings in orders in O.A.689/00 dated 25.11.2002 (A8) and O.A.436/01 dated 8.1.2003(A-11).

9.

2. The respondents have filed a detailed reply statement which, we notice, contains definite admission of the fact that the applicant is unquestionably the seniormost Lascar I Class as of now. However, the objection to his claim for promotion to the post of Syrang of Lascar is that he does not belong to the feeder category viz., Sukhani and also that he was not a party to the earlier O.As.

3. We have considered the material on record and heard Shri Mohan Pulikkal, the learned counsel for the applicant and Shri C.Rajendran, learned SCGSC for the respondents. Learned counsel would, vehemently plead that the applicant being the seniormost Lascar I Class ought to be considered for promotion to the post of Syrang of Lascar. Shri C.Rajendran, learned SCGSC has relied on the reply statement and submitted that the applicant could not be considered for promotional post for the simple reason that, Sukhanis along constitute the feeder category although under the orders of this Tribunal the case of similar Lascars I Class has been directed to be considered on the basis of the specific representation. We notice that the argument that the applicant does not belong to the feeder category of Sukhanis and that therefore, he could not be considered for promotion to the post of Syrang of Lascar, is no longer admissible since the same has been repelled by this Tribunal in several orders more particularly in A-8. In the said O.A. this Tribunal has observed as under.

.....The situation prevalent at the time O.A.553/93 was filed still continues because the "Sukhanis" who are in the feeder category have not even now been successful in acquiring the qualifications prescribed for the post of Syrang of Lascars. The applicants who indisputably possess the qualification as admitted by the official

respondents have got to be considered for promotion as Syrang of Lascars after giving the "Sukhanis" who are in the feeder category, six months' time to acquire the qualification and if they fail to qualify. If the 5th respondent has the qualification it is upto him to put forth his claim. "

4. While considering the subsequent case in O.A.436/01 an identical situation was before this Tribunal and this Tribunal came to the following findings:

"The learned counsel on either side agree that the application may be disposed of directing the respondents to consider the applicant also for such promotion to the post Syrang of Lascar along with applicants in O.A.689/00 as the applicants in that case are similarly situated like the applicant in this case.

In the light of the above submission made by the counsel on either side, the application is disposed of directing the respondents that if the Sukhanis in the feeder cadre fails to qualify for promotion to the post of Syrang of Lascars within a period of 6 months stipulated in the order in O.A.689/00, the applicant in this case also shall be considered for promotion like the applicants in O.A.689/00 to the post of Syrang of Lascar, if necessary by relaxing the provisions of recruitment rules. No costs. "

5. On consideration of the relevant facts we find that the fact situation in this case is exactly identical to the one that was considered in our earlier orders, more particularly in A-8 and A-11 and that for that reason our findings should be the same in this case also.

6. We take note of the following submissions of the respondents in their reply statement.

"With regard to the averments in ground B, it is submitted that it is true that the applicant has the required qualification for promotion to the post of Syrang of Lascar although he is not in the feeder category. The Hon'ble Tribunal in judgement in O.A.689/00 has stated that if the 5th respondent has the required qualification, it is up to him to put forth his claim and not directed to consider him for promotion along with the applicants in O.A.689/2000.

2.

With regard to the averments in ground C, it is submitted that as there are 5 applicants in OAs 689/00 and 436/01 and the vacancies are only 4 (3 clear and 1 anticipated) the respondent is unable to consider a non-petitioner, although the applicant is the seniormost."

7. We also take note of the fact that although the existing Sukhanis have been put on notice in pursuance of the directions of this Tribunal to qualify themselves for promotion to the post of Syrang of Lascar by order dated 25.11.2002, according to the averments made by the applicant in M.A.389/03, no qualified Sukhani in the Department has come up for claiming promotion to the post of Syrang of Lascar so far. The respondents have not controverted this.

8. On the facts and in the circumstances explained above, we consider it appropriate to dispose of the O.A. by setting aside the impugned A-12 order dated 18.2.2003 and directing the respondents to reconsider the applicant's case for promotion to the post of Syrang of Lascar highlighted in A-10 representation dated 13.1.2003 along with other qualified Lascars I Class after ascertaining that there is no qualified Sukhanis as on the admitted cut off date of 25.5.2003. Accordingly we do so.

9. Appropriate orders shall be issued in this case within a period of four months calculated from the cut off date given to the existing Sukhanis for proving their qualification and eligibility for promotion to the post of Syrang of Lascars.

10. O.A. is disposed of accordingly. No costs.

Dated the 29th May, 2003.


K.V.SACHIDANANDAN
JUDICIAL MEMBER


T.N.T.NAYAR
ADMINISTRATIVE MEMBER