

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. No.210/2006

Tuesday this the 27 th day of March, 2007.

CORAM:

**HON'BLE Dr. K.B.S. RAJAN, JUDICIAL MEMBER
HON'BLE MR. N.RAMAKRISHNAN, ADMINISTRATIVE MEMBER**

N. Veeranan, S/o Nondi,
Senior Fitter,
Central Institute of Fisheries Nautical &
Engineering Training(CIFNET), Kochi,
residing at No.5/26. IFP Quarters,
Kochi-18. Applicant

(By Advocate Shri TC Govindaswamy)

Vs.

1. Union of India, represented by
Secretary, Government of India,
Ministry of Agriculture,
Department of Animal Husbandry & Dairying,
New Delhi.
2. The Director,
Central Institute of Fisheries Nautical &
Engineering Training, Kochi. Respondents

(By Advocate Shri S. Abhilash, ACGSC)

ORDER

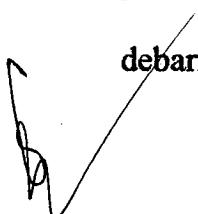
HON'BLE Dr. K.B.S. RAJAN, JUDICIAL MEMBER

The applicant is presently working as a Senior Fitter on regular basis in the scale of pay of Rs.3200-4300. In terms of the recruitment rules, the post of Mechanical Supervisor in scale Rs.4500-7000, is to be filled up 100% by promotion from among Senior Fitter/Senior Welder with 10 years regular service in the grade, or Fitter/Welder/Turner, Blacksmith/Tool Room Assistant with 13 years regular service in the grade. There is only one post of Senior Fitter and that post is held by the applicant on regular basis w.e.f.27.09.04. He was appointed to the post of fitter on 1.5.1980.

2. A vacancy of Mechanical Supervisor arose w.e.f. 1.11.2005. The applicant submitted a representation dated 7.12.2005, addressed to the second respondent praying that the applicant be considered for promotion, since he is the senior-most.

3. In the light of Govt. of India instructions , the seniority list of persons in the relevant grade should be brought upto date and "this should be circulated to the staff concerned before convening DPC." The applicant understands, without publishing the seniority list the DPC met on 21.3.2006, and the respondents have not granted the applicant highest position in the seniority by virtue of his position in the higher grade. The person in the lower grade is likely to be promoted.

4. Respondents in their reply statement contended that, the applicant was considered by Departmental Promotion Committee for recommendation but he has not found eligible as he did not possess 10 years' regular service in the grade of Senior Fitter. It is a fact that, Seniority list in the relevant grade has not been circulated prior to Departmental Promotion Committee Meeting held on 21.3.06. But the selection process is not arbitrary, discriminatory and unconstitutional since the list of eligible candidate for promotion has been prepared and placed before the DPC met on 21.3.2006. The applicant is the only incumbent in the post of Senior Fitter but not senior-most among the eligible candidates to consider for promotion to the post of Mechanical Supervisor. Shri Rathinam, has been considered for promotion to the post of Mechanical Supervisor only after the expiry of the debarment period of his promotion made earlier as senior Fitter.



5. The applicant has filed a rejoinder stating that there can be no administrative difficulties in circulating the names of 5 eligible candidates, falling within the zone of consideration in the order of their seniority before convening the DPC. Transparency in matters of selection, at least in the matter of eligibility of candidates for promotion, cannot be a casualty for administrative inefficiency, as it affects substantially the civil and fundamental rights of serving employees. The respondents state that the list of eligible candidates for promotion has been prepared and placed before the DPC which met on 21.3.2006 as per seniority. This averment of the respondents is factually incorrect. The respondents have not prepared the eligibility list in the order of seniority. If they had done so they ought to have circulated the same or atleast produced before this Hon'ble Tribunal instead of maintaining capacity in their transaction. The respondents ought to have placed the applicant senior among the eligible candidates being the person holding the higher post on regular and substantive basis among eligible candidates.

6. The respondents in their additional reply statement contended that, the applicant has completed 13 years of regular service in the grade of Fitter. That is the reason why the applicant was also considered in the DPC for promotion on the basis of seniority. But the DPC has not found him fit for promotion. As per the judgement of Hon'ble Supreme Court, the CAT/Court has no jurisdiction to interfere in the decision of DPC and cannot give any direction to the DPC to consider for any promotion. The eligible candidates with 13 years of regular service in the grade of Fitter/Welder/Turner/Blacksmith/Tool Room Assistant for consideration of promotion, as per the consolidated seniority list in the grade of Fitter, Welder/Turner/Blacksmith/Tool Room Assistant, has been prepared and

placed before the DPC for consideration. The senior most in the Seniority list has been considered and selected for promotion to the post of Mechanical Supervisor by the DPC.

7. Counsel for the applicant argued that the applicant had enshouldered higher responsibilities compared to others by accepting promotion as Senior Fitter while others, albeit senior in the rank of Fitter, for their own benefit refused promotion and escaped higher responsibilities. It would only be appropriate that he who had enshouldered higher responsibilities is considered and granted promotion. Otherwise, promotion on the basis of 13 years service at the level of Fitter, to a person who refused to shoulder higher responsibility would amount to premium being granted to such individuals who are reluctant to take up higher responsibilities.

8. Counsel for respondents argued that, when Recruitment Rules provide a particular mode for selection, that cannot be ignored.

9. Arguments were heard and documents perused. The applicant does not fulfill the condition of having 10 years service as Senior Fitter. Thus, he was considered along with other Fitters (and equivalent) with 13 years regular service in that grade. And to his knowledge there are others senior to him in that grade. Counsel for respondents produced copy of documents considered by DPC, which included combined Seniority List of Feeder grade posts. There were at least four persons senior to the applicant in the list. Thus the respondents had selected the senior one who was found suitable. The one selected for promotion was not junior to the applicant in the grade of Fitter with minimum 13 years of service. Their action is thus within the provisions of statutory Rules. No illegality can be

discerned in their action.

10. The O.A. is thus devoid of merits and is therefore, dismissed. No costs.

Dated the 27 th March, 2007.

N.R.K

N.RAMAKRISHNAN
ADMINISTRATIVE MEMBER

K.B.S.RAJAN

Dr. K.B.S.RAJAN
JUDICIAL MEMBER

rv