

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Dated, the 19th October, 1993.

CORAM

THE HON'BLE MR N DHARMADAN, JUDICIAL MEMBER
&
THE HON'BLE MR S KASIPANDIAN, ADMINISTRATIVE MEMBER

O.A.No.225/93

M Kasmi	- Applicant
M/s MR Rajendran Nair & PV Asha	- Advocate for applicant

V.

1. Union of India, represented by
Secretary to Government,
Ministry of Surface Transport,
Secretariat, New Delhi.
2. The Administrator,
U.T. of Lakshadweep, Kavaratti. - Respondents
- Mr MVS Nampoothiri~~ji~~, ACGSC - Advocate for
respondent-2

JUDGEMENT

N DHARMADAN, JUDICIAL MEMBER

The applicant is working as a Motor Vehicle Inspector in the U.T. of Lakshadweep, Kavaratty. He filed this application under Section 19 of the Administrative Tribunals Act for regularisation of his service in that post, by appointing him in the vacancy sanctioned by the authorities as per letter No.11013/1/91-PE-II dated 26.7.1991 of the Ministry of Surface Transport, New Delhi.

2. According to the applicant, he was appointed as Motor Vehicle Inspector as per Annexure-VIII, a statutory order dated 4.1.1990 after following all procedural formalities.

But when a post was sanctioned by the Ministry of Surface Transport as per order dated 26.7.1991, he was given an adhoc appointment as per Annexure-XI order dated 12.8.1991. While working so, the recruitment rules for the post of Motor Vehicle Inspector was issued under proviso to Article 309 of the Constitution of India on 12/16.11.1992(Annexure-XIII). The qualifications for appointment as Motor Vehicle Inspector are as follows:

"Promotion/transfer on deputation of officers of the Central/State Government/Union Territories Administration:

1. (a) holding analogous posts on regular basis; or
- (b) with 2 years regular service in posts in the grade of Rs.1640-2900/- or equivalent; or (ii) with 7 years regular service in posts in the scale of Rs.1400-2300/2600 or equivalent; and possessing the following qualifications and experience."

The said rules also contains power for relaxation which is extracted below:

"Power to relax: Where the Central Government is of the opinion that it is necessary or expedient to do, it may, by order; for reasons to be recorded in writing and in consultation with the Union Public Service Commission, relax any of the provisions of these rules with respect of any class or category of persons."

3. The applicant filed Annexure-XIV representation on 12.1.1993 requesting the respondents 1&2 to regularise him in service in view of the fact that he has already appointed in that post and has long service in the post of Motor Vehicle Inspector from 1990. That representation has not been disposed of so far.

4. The learned counsel for applicant submitted that the applicant is qualified for the post under the recruitment

According to him he
rules. As is holding an analogous post as per Clause 1(a) of the schedule, which is extracted above. If this is not acceptable, according to him he was holding the post of a Cargo Superintendent in the scale of Rs.1400-2300 from 14.5.1987 which is an alternate qualification. Hence under these circumstances, he can be considered as a person holding in the pay scale of Rs.1400-2300 for appointing him as Motor Vehicle Inspector under the recruitment rules.

5. Respondents have taken the view that the applicant is not qualified under the Recruitment Rules, even though he has been appointed as Motor Vehicle Inspector from 4.1.1990, it cannot be treated as an analogous post for making him eligible for appointment as regular Motor Vehicle Inspector under the recruitment rules. In regard to the contention that he was holding the post of Cargo Superintendent, the respondents have stated that he will be completing seven years under the rules, only in May 1994. Hence even if the applicant's contention is accepted that he was holding the post carrying a salary in the scale of Rs.1400-2300, he is not eligible to be appointed as Motor Vehicle Inspector at present.

6. It is an admitted fact that ^{www 4} after the recruitment rules came ^{into force 4} ~~only subsequently~~ and the respondents have issued a further notification on 12.2.1993 inviting application for appointment as Motor Vehicle Inspector (Group B) in the pay scale of Rs.2000-3200. The applicant submitted his application

pursuant to this notification and he is the only person who has submitted application for selection. This fact establishes that the applicant is the only person who is available to be absorbed as Motor Vehicle Inspector having experience in the post from 10.1.1990. Considering these aspects, the respondents could have absorbed him in the service.

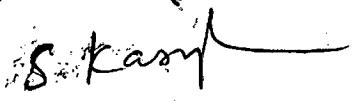
7. The vacancy of a regular post of Motor Vehicle Inspector exists with effect from 12.8.1991. Having regard to the facts that the applicant is working from 1990, he deserves consideration for regularisation even if he is not fully qualified under the recruitment rules after relaxation of the qualification in case he is not fully qualified according to the Recruitment Rules, in the light of the view already expressed by them. Whether the post held by the applicant from 1990 is a 'analogous post' or not the fact remains that he is the only experienced officer available under the respondents to be appointed as Motor Vehicle Inspector. The post is remaining vacant and the applicant is working in the office on the basis of Annexure-XI order.

8. In this view of the matter, we are satisfied that the application can be disposed of in the interest of justice, with direction to the respondent-2 to consider the regularisation of the applicant and appointment to the post of Motor Vehicle Inspector with effect from the date of Annexure-XI after due relaxation of the qualification, in case they take the view that the applicant is not fully

qualified under the Recruitment Rules. This shall be done within three months from the date of receipt of a copy of this judgement.

9. Application is allowed to the extent indicated above. It goes without saying that the applicant shall be allowed to continue in the present post pending final decision and implementation on the above basis. There will be no order as to costs.

Dated, the 19th October, 1993.


(S KASIPANDIAN)

ADMINISTRATIVE MEMBER


19. 10. 93
(N DHARMADAN)
JUDICIAL MEMBER

trs

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

C.P.C.153/94 in O.A.225/93

Friday, this the 19th day of July, 1996.

CORAM:

HON'BLE MR JUSTICE CHETTUR SANKARAN NAIR, VICE CHAIRMAN

HON'BLE MR PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

M Kasmi,
Motor Vehicle Inspector,
Union Territory of Lakshadweep,
Kavaratti.

- Petitioner

By Advocate Mr MR Rajendran Nair

Vs

1. C.N.Ramdas,
Secretary to Government,
Ministry of Surface Transport,
Secretariat, New Delhi.

2. Sateesh Chandra,
the Administrator,
Union Territory of Lakshadweep,
Kavaratti. - Respondents

By Advocate Mr Shafik for Mr TPM Ibrahim Khan, Senior
Central Government Standing Counsel (for R-1)

The petition having been heard on 19.7.96 the
Tribunal on the same day delivered the following:

O R D E R

CHETTUR SANKARAN NAIR(J), VICE CHAIRMAN

Petitioner complains of disobedience of the orders
of this Tribunal in O.A.225/93. It is now reported that
respondent-Administrator has passed an order granting the

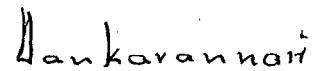
relief prayed for, subject to approval of the Government of India. That is sufficient compliance of the orders of this Tribunal. If petitioner has other grievances, his remedies lie outside a contempt petition.

2. We are not very happy about the conduct of petitioner in impleading the Secretary to the Government of India as a respondent to this petition, when the Bench which decided O.A.225/93 had not issued any direction to the Secretary. If the order of the Bench was laconic, it was the plain duty of petitioner to have made mention of the matter and remedied the position. Process of this Court, cannot be abused for personal ends.

3. Contempt Petition is dismissed. No costs.

Dated, the 19th July, 1996.


PV VENKATAKRISHNAN
ADMINISTRATIVE MEMBER


CHETTUR SANKARAN NAIR(J)
VICE CHAIRMAN

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