

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A.No.227/94

Tuesday, this the 2nd day of August, 1994

CORAM:

HON'BLE SHRI S KASIPANDIAN, ADMINISTRATIVE MEMBER

HON'BLE SHRI P SURYAPRAKASAM, JUDICIAL MEMBER

KV Antony,
S/o KV Varkey, Aged 48 years,
Moulder HS.I,
Foundry Shop,
Naval Ship Repair Yard,
Naval Base, Cochin-4. - Applicant

By Advocate M/s K Ramakumar & Navaneethan KV

Vs.

1. Union of India represented by
the Secretary,
Ministry of Defence,
New Delhi.
2. Flag Officer Commanding-in-Chief,
Southern Naval Command,
Cochin.
3. The Commodore Superintendent,
Naval Ship Repair Yard,
Naval Base, Cochin-4. - Respondents

By Advocate Mr CN Radhakrishnan, ACGSC

O_R_D_E_R

S KASIPANDIAN, ADMINISTRATIVE MEMBER

The applicant is at present working as Moulder,
Highly Skilled in the Naval Ship Repair Yard, Cochin. He
is an aspirant for the post of Senior Chargeman. Learned.

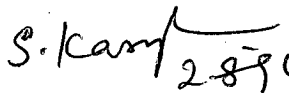
counsel for the applicant argued that since this post was a single post, there cannot be any reservation for the post when the first vacancy arose. Subsequently when the second vacancy arose, the post was reserved. Since there was no reserved candidate eligible for appointment, the respondents have carried forward the vacancy. Now the present vacancy is the third vacancy. Learned counsel for the applicant contended that the third vacancy cannot be reserved since there is no reserved candidate available for promotion.

2. It is mentioned in the reply statement that the first vacancy was filled up by a general candidate, according to the Instructions of the Department of Personnel and A.R. O.M.No.1/9/74-Estt(SCT) dated 29.4.1975 and No.36011/39/81-Estt(SCT) dated 30.11.1981 which orders are marked as Annexures-R1 and R2. The second vacancy was treated as a reserved vacancy and since no reserved candidates were available, it was carried forward. The present vacancy is thus a carried forward vacancy. According to the Recruitment Rules for the post of Senior Chargeman, there is provision for filling up the vacancy 75% by promotion, failing that by direct recruitment and 25% by direct recruitment. As no Scheduled Caste candidate is available in the feeder category for promotion to Senior Chargeman, the vacancy was advertised for direct recruitment as provided for in the Recruitment Rules. Hence the applicant cannot stake any claim for this vacancy.

3. This question has been considered in detail by this Bench in O.A-632/92 and the judgement was delivered on 13.7.1994. As clarified in the judgement in Om Prakash Vs. Delhi Administration & others, (1988(2) SLJ, 133-CAT), when there is a single post cadre and when the rules provide for the vacancies to be filled up by promotion, failing which by direct recruitment, the question of dereservation will arise only after exhausting all the prescribed modes indicated in the Recruitment Rules. In the light of the position clarified in the instructions of Department of Personnel as in Annexures-R1 and R2 and in terms of the principles explained in the judgement as aforesaid, the respondents are perfectly within their right to treat this third vacancy of Senior Chargeman as a reserved vacancy to be filled up by direct recruitment. For the reasons aforesaid, the application is dismissed as devoid of merit. No costs.

Tuesday, this the 2nd day of August, 1994.


(P SURYAPRAKASAM)
JUDICIAL MEMBER


(S KASIPANDIAN)
ADMINISTRATIVE MEMBER

trs/2894

LIST OF ANNEXURES

- Annexure R1 : Copy of OM No.1/9/74 Estt. (SCT) dated 29.4.1975 issued by Deptt. of Personnel & Administrative Reforms.
- Annexure R2 : Copy of OM No.36011/39/81 Estt. (SCT) dated 30.11.1981 issued by the Deptt. of Personnel & Administrative Reforms.