

CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

Dated Friday the nineteenth day of January 1990

PRESENT:

HON'BLE SHRI N.V. KRISHNAN, MEMBER(ADMINISTRATIVE)

AND

HON'BLE SHRI N. DHARMADAN, MEMBER(JUDICIAL)

ORIGINAL APPLICATION 229/89

V. Margret Fernandez

..the applicant

V.

The Union of India represented by
the Secretary of Space, New Delhi ..1st respondent

The Director, Vikram Sarabhai Space
Centre, Trivandrum 695 022 ..2nd respondent

The Administrative Officer,
Recruitment Section,
Vikram Sarabhai Space Centre,
Trivandrum 695 022

..3rd respondent

M/s. Pirappancode V. Sreedharan
Nair, S.P. Aravindakshan Pillai,
K.G. Anil Babu and Pirappancode
V.S. Sudheer

: Counsel for the
applicant

Mr. K. Prabhakaran, ACGSC

: Counsel for the
respondents

JUDGMENT

Shri N. Dharmadan, JM

In this Original Application filed under
Section 19 of the Administrative Tribunals Act 1985, the
Applicant, who is an evictee from the land belonging to

her consequent upon the acquisition of land for the purpose of establishing Rocket Launching Station at Thumba by the Indian Space Research Organisation (ISRO), prays for a declaration that she is fully eligible, qualified and entitled to be appointed to the post of Safaiwala-A under the agreement of the second respondent that those persons whose lands were acquired will be given employment in the organisation established after eviction from the area.

2. The undisputed facts of the case are that the applicant who was a resident of Attipra Village was evicted from land with building existed in Survey No. 2804/10 under Land Acquisition case No. 5/95/63 by the State Government for the purpose of establishing the Rocket Launching Station at Thumba along with 550 families. In addition to the normal compensation and alternative land for settlement of evicted families the Chairman of the ISRO also offered by way of an agreement and understanding that one member from each of the families will be given employment in the VSSC.

The promise or undertaking will be effective for three generations if no person is available for employment in the first two generations in the family. The applicant being the only available person in her evicted family for getting this benefit, represented to the second respondent, who having convinced about the status of the applicant registered her name with the Vikram Sarabhai Space Centre(VSSC) for consideration for appointment against suitable vacancies. The applicant was later interviewed for the post of Safaiwala-A on 11.11.1986 (Annexure-III) and was placed as 8th in the waiting list for appointment against the future vacancies. But she was not given appointment so far.

3. Hence, aggrieved by the delay in the appointment the applicant filed a petition before the second respondent (Annexure-IV) requesting to post her in the existing vacancies of Safaiwala-A. The applicant also sent a representation dated 7.4.1988 inviting the attention of the second respondent to two circulars (Annexure-V and VI) regarding vacancies existing in the

Group-C and D posts in VSSC.

4. The counsel for the applicant contends that the respondents took steps to fill up the post of Safaiwala-A by fixing the interview from 11th to 13th of April 1989 without giving a posting to the applicant who was already selected and placed in the waiting list for appointment. According to the applicant the interview letter issued to one of the aspirants (Annexure-VII) itself shows that there are existing vacancies in the post for which the applicant was selected.

5. The respondents filed counter affidavit totally denying the claim of the applicant to be appointed to the post of Safaiwala-A but admitted that the fact that the applicant has the status of an evictee entitled to appointment under the undertaking given by the Chairman referred to above. The pleadings and arguments in this case lead to mainly two points viz. (i) the validity period of the panel drawn in

VSSC/ISRO was 18 months and it expired in May 1989 and this is clear from Exhibit R.1. Emphasising this point the respondents contended that few candidates were found suitable for appointment and the selection committee recommended some of the candidates for the post of Canteen boy and some other candidates for the post of Safaiwala-A. Seven candidates were empanelled against the then existing vacancies and 13 persons were placed in the waiting list. The applicant was placed as 8th in the waiting list. Only five vacancies arose during the period and the applicant along with the remaining candidates were not offered appointment even when further vacancies arose, subsequently. (ii) The next point is relating to the age limit. The argument of the respondents is that the applicant crossed the maximum age limit of 35 years prescribed for appointment to Group-D posts in VSSC and it was due to this disqualification that the applicant was not called again for interview held from 11th to 13th of April 1989, along with other evicted persons for the post of Safaiwala-A.

6. Having regards to the facts and circumstances of this case we are inclined to decide in favour of the applicant on both the points after hearing the arguments of the learned counsel appearing on behalf of the parties and examining the documents produced in this case. The applicant was selected for appointment accepting her claim based on the status of an evictee relying on the relevant document viz. the eviction Certificate, obtained from the Revenue Inspector, Kazhakuttom. The delay in giving appointment by the respondents cannot be used with advantage by the respondents for defeating the right of getting an appointment to the post of Safaiwala-A by the applicant. According to the applicant there were existing vacancies and she should have been appointed very much earlier and the respondents delayed the appointment only to deprive her right to get the benefit of the undertaking of the Chairman. During the understanding arrived at between the then Chairman, ISRO and the Welfare Association of the applicant and similarly situated persons, it was also agreed that this benefit will be extended upto three generations, if eligible and suitable persons are not found in the first two generations in a family.

There was no age restriction for appointment at the time of understanding. In the present case before us, the applicant is the only person available in her family and none-else advanced claim from her family for appointment. Another aspect is that the applicant is fully qualified to hold the post and she was selected for appointment on 11.11.1986. The respondent also issued the Annexure-III stating that she has been placed in the select list on the decision of the selection committee. She should have been appointed immediately after selection in one of the then existing vacancies. Now after having delayed the appointment by the respondents they are rejecting the claim of the applicant on the ground of overage, and expiry of the validity period of select list. These are highly technical points. The respondents did not dispute the fact that the persons who crossed 35 years, viz. Smt. Lawarance Miranda, Mary Sherly and Mary Rozario had been given appointment inspite of the age bar. We feel that the denial of employment to the applicant is inconsistant with and repugnant to the very object of the agreement reached by the then Chairman, ISRO with the Association of evictees as it was meant to

give some benefit to the evictess from this land consequent upon the acquisition of land by the State Government for this Rocket Launching Station of ISRO.

7. Recently we (same Bench) have considered an identical issue in OAK 291/88 and allowed the application directing the respondents to give appointment to the applicant in any of the available posts in terms of the understanding. We follow that judgment and are inclined to allow this application also.

8. In view of the facts and circumstances of the case we feel that the applicant is an evictess satisfying all having the required qualification ~~fully~~ xxxxx/ other conditions as stipulated in the 'understanding' already arrived at and she is entitled to get the benefit of appointment as claimed by her in this application.

9. Hence, we allow this application with the direction that the respondents should consider the claim of the applicant for appointment in the post of

-: 9 :-

Safaiwala-A in the VSSC, Thumba, Trivandrum giving the status of evictee and appoint her in any of the available posts to which she can be accommodated within a period of four months from the date of communication of this order.

There will be no order as to costs.

N. Dharmadan

19.1.90

(N. DHARMADAN)
Member (Judicial)

N. V. Krishnan

19.1.90

(N. V. KRISHNAN)
Member (Administrative)

19.1.1990

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM

RA 42/90 in O.A. No. 229/89
T.A.X. No.

199

DATE OF DECISION 18-7-90

Union of India rep. by the Applicant (s)/Respondents in OA
Secretary, Deptt. of Space,
New Delhi & others

Mr K Prabhakaran, ACCSC Advocate for the Applicant (s)

Versus

V Margret Fernandez Respondent (s)/Applicant in OA

Mr Pirappancode V Sreedharan Advocate for the Respondent (s)
Nair

CORAM:

The Hon'ble Mr. NV Krishnan, Administrative Member

The Hon'ble Mr. N Dharmadan, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? No
3. Whether their Lordships wish to see the fair copy of the Judgement? No
4. To be circulated to all Benches of the Tribunal? No

JUDGEMENT

Shri N Dharmadan, Judicial Member

The respondents in the original application have filed this Review Application raising various grounds.

The learned counsel submitted that at the time when the

OA was disposed of, certain facts were not appreciated.

According to him the respondents had not purposely delayed the appointment of the applicant.

to defeat the rights. On the other hand, she was not

appointed only because no vacancy arose before the expiry

of the period of the list. The persons who crossed

35 years namely, Smt Lawarance Miranda, Mary Sherly and

Mary Rozario have been appointed because of the existence

of vacancies before the period of expiry of the list.

The applicant was ranked only 8th in the waiting list and

she could not be given a post of Safaiwala as in the case

of persons mentioned above. These aspects are stated to have been over-looked by us at the time of pronouncement of the judgment.

2 Of course, this matter has not been specifically placed before us for consideration. But the omission to consider these facts is not a good and sufficient ground for reviewing the judgment on ~~this~~ ^{by} facts and circumstances of this case. We have observed in the judgment that the applicant's name was also included in the waiting list and she was awaiting an appointment, but the delay in making the appointment defeated the applicant's right of getting an appointment. There may not be any deliberate delay on the part of the review applicants. But they could have appointed the applicants as Safaiwala, notwithstanding the technical points viz, the expiry of the period of the list and the over age of the applicant because we have specifically held that " the denial of employment to the applicant is inconsistent with and repugnant to this very object of the agreement reached by the then Chairman, ISRO with the association of evictees ...".

3 In the light of the above findings in this judgment the omission to advert the facts submitted by the review applicant are not relevant especially when we have considered the case of the applicant as a unique and not to be treated as a general precedent. special case ^{by} Her name had been included in the panel

was by
when she is within the age limit and there is no
default on the part of the applicant so as to deprive
of the right to get an appointment in the light of the
agreement entered into between the Chairman, ISRO and
the association. In this view of the matter, we are
satisfied that the review applicants have not made out
any ground for interfering - invoking our jurisdiction
of review in this matter.

4 Accordingly, this review application is
dismissed.

N. Dharmadan *NV Krishnan*

(N Dharmadan) (NV Krishnan)
Judicial Member Administrative Member

18-7-1990