

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH**

**O.A.259/03**

Tuesday....., this the 29<sup>th</sup> day of November 2005

**C O R A M :**

**HON'BLE MRS.SATHI NAIR, VICE CHAIRMAN  
HON'BLE MR.GEORGE PARACKEN, JUDICIAL MEMBER**

Syed Fazal K.,  
S/o. K.P.Muhammed,  
Accountant (on deputation),  
Lakshadweep Khadi & Village Industries Board,  
Kavarathi, U.T of Lakshadweep.  
Residing at Kattimmada, Kavarathi,  
U.T of Lakshadweep. ....Applicant

(By Advocate Mr.M.R.Hariraj)

**Versus**

1. Union of India represented by the Secretary,  
Ministry of Home Affairs, Government of India,  
New Delhi.
2. The Administrator,  
U.T of Lakshadweep, Kavarathi.
3. Secretary (Administration),  
U.T of Lakshadweep, Kavarathi. ....Respondents

(By Advocate Mr.P.R.Ramachandra Menon)

**ORDER**

**HON'BLE MRS.SATHI NAIR, VICE CHAIRMAN**

The applicant herein is aggrieved by the action taken by the respondents to fill up all the posts of Junior Accounts Officer (JAO for short) under the 2<sup>nd</sup> respondent by deputation without considering his case for promotion in accordance with the rules. The case of the applicant is that he was regularly promoted as Upper Division Clerk (UDC for short) in 1989 and was eligible for being considered for promotion as Accountant in

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1994 on completion of five years of regular service as UDC. He was given an ad hoc promotion as Accountant in 1997 as regular DPCs were not being conducted by the respondents. Then a regular DPC met on 31.7.2000 and he was regularised along with others with effect from 31.7.2000. In fact the applicant was entitled to have a prior date of regular promotion from as early as 1997 itself. He passed the Common Junior Accounts Officers Examination, 2002 by order dated 14.1.2003 (Annexure A-5). Now all the 13 posts of JAOs are presently proposed to be filled by way of deputation. The rules mandate regular service of 3 years in the grade of Accountant for being promoted as JAO, according to which the applicant is also qualified for promotion with effect from 31.7.2003. The respondents are trying to fill all the vacancies by deputation on the ground that the applicant is not eligible for promotion as JAO in May, 2003 and this would permanently prejudice the applicant's chances. The ad hoc promotion given to the applicant would be considered as a regular service as it was a mistake of the administration in not considering him for regular promotion and hence the applicant prays for the following relief :-

1. Declare that the applicant is entitled to be considered for promotion to the post of JAO and direct the respondents to consider the applicant for promotion as JAO and to grant him promotion as JAO, before filling up any vacancy by deputation.
2. According to the respondents the actual facts and circumstances are that as per the Recruitment Rules for promotion to JAO (Annexure A-6) Senior Auditor/HC/Accountant in the scale of pay of Rs.5000-150-8000/- with 3 years regular service in the grade having passed the SAS Examination would be eligible to be considered for promotion. The

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applicant who was promoted as Accountant on regular basis with effect from 31.7.2000 would complete the required regular service only on 31.7.2003 and therefore he is not eligible to be considered for the post which fell vacant on 14.5.2003 consequent on the repatriation of officials who are working as Junior Accounts Officer on deputation basis. Therefore, Annexure A-1 circular was issued on 19.2.2003 for adopting the method of deputation for filling up the post. Regarding the contention of the applicant that he should have been promoted as Accountant in March 1997 it is submitted that no DPC could be convened due to various administrative reasons beyond control and also the difficulties caused due to the geographical isolation of the islands. The applicant has accepted the ad hoc promotion and the regular promotion with effect from 31.7.2000. He cannot raise this contention now. The applicant does not have any legally enforceable right and the OA is devoid of any merits.

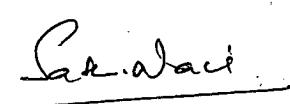
3. We have heard the learned counsel on both sides and gone through the various material on record. The applicant herein is only seeking a promotion to the post of J.A.O before filling up any vacancy by deputation. The issue regarding treating his ad hoc service as regular service is not subject matter of this application and the judgment in Annexure A-9 is not relevant to the issue. During the arguments the learned counsel for the respondents submitted that the applicant has already been promoted with effect from 26.8.2003 according to the rules as pointed out supra. The applicant has to fulfill the twin conditions of regular service of three years in the grade of Accountant as also a pass in the Common J.A.O examination. The applicant who was promoted as an Accountant on 31.7.2000 will complete the required regular service only on 31.7.2003. He passed the

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J.A.O examination on his own submission on 14.1.2003 therefore the applicant become fully eligible for promotion only after 31.7.2003. He has since been promoted as stated on 26.8.2003. As the relief has been already granted nothing more survives in this O.A for decision. Accordingly the O.A is treated as closed. No order as to costs.

(Dated the 29th day of November 2005)

  
**GEORGE PARACKEN**  
**JUDICIAL MEMBER**

  
**SATHI NAIR**  
**VICE CHAIRMAN**

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