

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No. 269 of 2009

Thursday, this the 14th day of July, 2011.

CORAM:

**HON'BLE Mr. JUSTICE P.R. RAMAN, JUDICIAL MEMBER
HON'BLE Mr. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

K.P. Shaffi,
S/o. P.S. Ahammed,
Oilman, Power House,
O/o. Assistant Engineer,
Electrical Sub Division,
Union Territory of Lakshadweep,
Kavaratti.

... Applicant.

(By Advocate Mr. N. Unnikrishnan)

v e r s u s

1. Union of India represented by
The Secretary to the Government of India,
Ministry of Personnel and Public Grievances,
Department of Personnel and Training,
New Delhi : 110 001
2. The Administrator,
Union Territory of Lakshadweep, Kavaratti.
3. The Executive Engineer,
Electrical Department,
Union Territory of Lakshadweep, Kavaratti.
4. The Assistant Engineer (Electrical),
Electrical Sub Division,
Union Territory of Lakshadweep, Kavaratti.
5. P. Sulaiman,
Helper for Lineman,
Electrical Sub Division,
Union Territory of Lakshadweep, Kavaratti.
6. C.P. Khalid,
Helper for Lineman,
Electrical Sub Division,
Union Territory of Lakshadweep,
Kavaratti.

... Respondents.

(By Advocate Mr. Sunil Jacob Jose, SCGSC for R-1 and
Mr. S. Radhakrishnan for R2-4)



This application having been heard on 29.06.2011, the Tribunal on 14.07.11.... delivered the following:

ORDER

HON'BLE Mr. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER

This O.A has been filed by the applicant with the prayers to call for the records leading to the appointment of Oilman made by the respondents from 11.11.1994 onwards; for a declaration that Annexure A-8 order dated 01.05.2008 regularising the services of 10 Oilmen and another order dated 01.08.2003 (Annexure A-2) are unsustainable and also to grant him promotion to the post of Oilman with effect from 11.11.1994.

2. M.A. No. 335/09 filed in this O.A. is for condonation of a delay of 14 years and 159 days in filing the O.A. The grounds for condonation of delay relied upon by the applicant are that he did not have any access to the records and that he came to know about the rule and its violation in 2009 only and that the injustice suffered by him is continuous in nature. It is also stated that there is no intentional laches or negligence on the part of the applicant.

3. The respondents submitted that the O.A. is hopelessly barred by limitation and that the applicant not only lost his remedy but also his right, if any. If promotion or appointment granted to another person about 14 years back is taken as a continuing cause of action then all administrative actions will have to be treated as continuous and the Section 21 of the Administrative Tribunals Act will become otiose. The regularisation or promotion granted during 1998 and 2003 cannot be touched on the basis of 'sit back theory'. The cause of action for this O.A. arose on 11.11.1994 when the alleged



violation of 66.7% quota for promotion when no one was promoted as against filling up of the posts available under 33.3% quota for direct recruitment. Sub section 1 of Section 21 of the Administrative Tribunals Act, 1985 reads as under :

"21. Limitation.- (1) A Tribunal shall not admit an application,-
 (a) in a case where a final order such as is mentioned in Clause (a) of sub-section (2) of Section 20 has been made in connection with the grievance unless the application is made, within one year from the date on which such final order has been made;
 (b) in a case where an appeal or representation such as mentioned in Clause (b) of sub-section (2) of Section 20 has been made and a period of six months had expired thereafter without such final order having been made, within one year from the date of expiry of the said period of six months."

4. The delay of more than 14 years is hopelessly too long to be condoned. The application (unsigned) dated 28.01.09 from the applicant to the respondents, in our view, does not mitigate the long delay in filing the O.A. We do not find any merit in the contentions of the applicant to condone the delay of more more than 14 years. The O.A is hopelessly time barred. Accordingly, we dismiss the M.A. No. 335/09 for condonation of delay. Consequently, the O.A. is dismissed as barred by limitation. No costs.

(Dated, the 14th July, 2011)



(K. GEORGE JOSEPH)
ADMINISTRATIVE MEMBER



(JUSTICE P.R. RAMAN)
JUDICIAL MEMBER