

CENTRAL ADMINISTRATIVE TRIBUNAL, ERIAKULAM BENCH

O.A. No. 281 of 1997.

Friday this the 13th day of June 1997.

CORAM:

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

HON'BLE MR. P.V. VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

P.K. Alappatt,
Superintending Engineer,
C/O Chief Engineer (NAVY)
Katari Baug, Kochi 682 004.
residing at 209, Konthuruthy Road,
Kochi- 682 013.

.. Applicant

(By Advocate Smt. Sumathi Dandapani)

Vs.

1. Union of India represented by
Secretary, Ministry of Defence,
New Delhi.

2. The Engineer-in-Chief,
Army Headquarters, New Delhi.

3. The Chief Engineer, Southern
Command, Pune-411 001.

4. Chief Engineer(Navy),
Kochi-682 004.

5. Shri R.A. Malvia,
Superintending Engineer,
Chief Engineer Jaipur Zone,
Bhanipat, Jaipur, Rajasthan.

.. Respondents

(By Advocate Shri TPM Ibrahim Khan, SCGSC(R.1 to 4)

The application having been heard on 13th day of June, 1997
the Tribunal on the same day delivered the following:

ORDER

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

The applicant is one of the seniormost Superintending
Engineers under the second respondent. His grievance is
that in the panel prepared for promotion to the post of
Additional Chief Engineers (Annexure A-2) his name has not

been included while the names of his juniors have been included and that by the order of promotion, (Annexure A-3,), his juniors have been promoted ignoring his claim.

A Charge Sheet was issued against the applicant on 26.8.1996 for certain misconduct alleged to have been committed during 1982 to 1986. The Charge Sheet and the departmental proceedings were challenged by the applicant in O.A. 1229/96. The Tribunal by order dated 21.1.97 quashed the charge sheet. If the non-promotion of the applicant was owing to the pendency of the disciplinary proceedings, now the respondents 1 to 4 are bound to open the sealed cover and give effect to the recommendations of the Departmental Promotion Committee. The posting of respondent No.5 at Cochin before giving effect to the recommendations of the DPC in regard to the applicant, according to the applicant is arbitrary. With these allegations the applicant has prayed for the following reliefs:

- "A. Call for the records leading to Annexure A-2 panel and A-3 promotion list pertaining to the selection of Additional Chief Engineer conducted in February, 1997.
- B. Direct the second respondent to open the sealed cover and take appropriate steps by including the applicant on the basis of the seniority in the Annexure A2 panel and A3 promotion list.
- C. Direct the 2nd respondent to give appropriate placement to the applicant with all consequential benefits from the date he is given promotion on the basis of sealed cover procedure.
- D. Direct the 2nd respondent not to fill up the post of Additional Chief Engineer which is being officiated by the applicant at Cochin, pending disposal of the above Original Application.
- E. To stay the implementation of Annexure A3 so far as it pertained to the 5th respondent giving him a posting at Cochin.
- F. To pass such other order or direction as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case."

2. The applicant sought, by way of interim relief, a stay of the operation of the Annexure A-3 order of promotion of his juniors to the extent it relates to the 5th respondent, but, this interim relief was not granted. Though the respondents 1 to 4 were given several adjournments for filing a reply they have not chosen to file reply as yet.

3. When the application came up for hearing, the learned counsel for respondents states that he has been instructed to say that the applicant's case was considered for promotion along with his juniors by a D.P.C. and that the recommendations of the D.P.C. was kept in the sealed cover as disciplinary proceedings against him was pending. He further states that as the charge sheet has been quashed by the order in O.A. 1229/96, the respondents requested him to get three months' further time to file a reply.

4. The request for three months further time to file a reply, in the facts and circumstances of the case cannot be even considered. We have heard the learned counsel. It is admitted that the applicant's case was considered and the recommendations of the D.P.C. was kept in sealed cover. It is also admitted that the disciplinary proceedings are no more in existence as the charge memo has been quashed by the Tribunal by its order in O.A. No. 1229/96. As there is no stay of the order by any appellate forum there is nothing now which should stand in the way of opening the sealed cover and giving effect to the recommendations of the D.P.C.

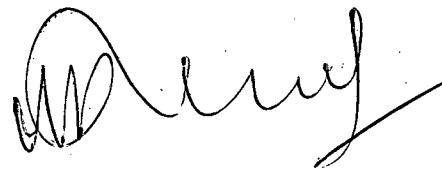
5. In the ~~coconspicuous~~ of the facts and circumstances, we finally dispose of this application directing the

respondents to open the sealed cover and give effect to the recommendations of the D.P.C in regards to the case of the applicant for appointment as Additional Chief Engineer in accordance with law within a period of one month from the date of receipt of a copy of this order. No costs.

Dated the 13th day of June 1997.

P. V. Venkatakrishnan

P. V. VENKATAKRISHNAN
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

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