

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.294/11

Monday, the *17th* day of October 2011

C O R A M :

HON'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER
HON'BLE Ms.K.NOORJEHAN, ADMINISTRATIVE MEMBER

M.Rajendran,
Driver, Regional Nehru Science Centre,
Calicut – 673 006.

....Applicant

(By Advocate Mr.R.Rajasekharan Pillai)

V e r s u s

1. The Director General,
National Council of Science Museums,
Sector V Block GH, Bidhan Nagar,
Calcutta – 700 091.
2. The Director,
Nehru Science Centre,
Dr.E.Mosses Road, Worli, Mumbai.
3. The Project Co-ordinator,
Regional Science Centre, Calicut – 673 006.
4. The Union of India
Ministry of Science and Technology
represented by its Secretary, New Delhi.

...Respondents

(By Advocate Mr.Sunil Jacob Jose,SCGSC)

This application having been heard on 10th October 2011 this Tribunal on *17th* October 2011 delivered the following :-

ORDER

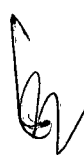
HON'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER

The applicant, who functions as Driver Grade II, is an aspirant for the post of L.D.C, recruitment to which is partly by direct recruitment and partly by way of promotion from amongst Group 'D' candidates on their

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possessing requisite qualification and fulfilling certain other conditions as per the Recruitment Rules. As per Rule A9.6.5 of NCSM (Recruitment and Promotion) Amendment Rules, 1999, the post of Driver is "excluded" Group 'C' administrative posts as distinct from Group 'D' non technical posts. Thus though the applicant has been trying his level best to participate in the selection to the post of L.D.C, he has not been permitted or considered. Finally, the respondents have vide O.M. dated 10.3.2011 rejected his request for shifting him to the post of L.D.C. The applicant has challenged the constitutional validity of the aforesaid Rule A9.6.5 (Annexure A-4).

2. The respondents have contested the O.A. According to them, the post of Publication Officer, Security and Maintenance Officer, Publicity and Public Relation Officer, Security and Maintenance Assistant, Assistant (Security), Assistant (Public Relations), Driver, Staff Car Driver, Editorial Assistant, Heavy Truck Driver and Gestetner Operators shall continue to be 'excluded' administrative post as per Rule A.3.5. According to them, vide para 6 of their reply the rule relating to filling up the post of L.D.C is specific. Vide para 7 of their reply, the rule further provides that a ten point roster shall be maintained by the Central Museum in a particular zone and every tenth vacancy of L.D.Cs shall be reserved for this purpose. One has to pass the necessary written and typing tests and also has to be recommended by the duly constituted selection committee. As regards constitutional validity, the respondents have stated that Article 16 does not debar a reasonable classification of the employees in the matter of appointment or promotion provided such classification is made with reference to the objectives to be achieved, as held by the Apex Court.



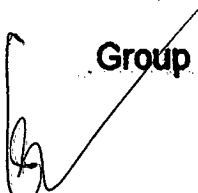
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Vide Annexure R-4, the promotional channel for the Drivers has also been reflected which would go to show that the post of Staff Car Drivers/Drivers is segregated as Driver Ordinary Grade (pay scale Rs.950-1500) (b) Driver Grade II (pay scale Rs.1200-1800) and (c) Driver Grade I (pay scale Rs.1320-2040). In addition to the above after the 5th Pay Commission recommendations, a Special Grade of Rs.5000-8000 was introduced as could be seen from Annexure R-4 (6) dated 7.9.2001.

3. Counsel for the applicant vehemently argued that the respondents are silent in indicating the object sought to be achieved by excluding the category of Drivers from competing to the post of L.D.C against the 10% quota for Group 'D' employees.

4. Counsel for the respondents, on the other hand, submitted that as a matter of fact the post of Staff Car Drivers is Group 'C' and the initial pay scale of Staff Car Drivers/Drivers corresponds to the post of L.D.C and as such, the Drivers cannot be allowed to participate in the selection against the 10% quota meant for Group 'D' persons.

5. Arguments were heard and documents perused. Admittedly, there is a hierarchy of promotion channel for the Drivers and the post of Driver is a Group 'C' post with the minimum pay scale as of L.D.C. If the applicant fulfills the requisite conditions for appointment under the 90% quota, he could participate in the selection in respect to which there can be no objections. However, against the 10% Departmental Quota meant for Group 'D' employees, permitting Staff Car Drivers with identical pay scale



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and identical group (Group 'C') will amount to reducing the chances of promotion of Group 'D' employees. Thus the decision of excluding Drivers by the Department while framing the Recruitment Rules cannot be faulted with. In addition, the same is a policy decision and in our view the constitutional guarantees are not in any way encroached upon by excluding the category of Drivers as stated above.

6. In view of the above, the O.A fails and is dismissed. There shall be no order as to costs.

(Dated this the ..17th... day of October 2011)


K.NOORJEHAN
ADMINISTRATIVE MEMBER


Dr.K.B.S.RAJAN
JUDICIAL MEMBER

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