

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.Nos. 303 and 820 of 2003

Monday, this the 28th day of February, 2005.

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

HON'BLE MR H.P.DAS, ADMINISTRATIVE MEMBER

O.A.No.303/2003

P.K. Sasi,
Lascar I, Commander of Yard,
Naval Ship Repair Yard,
Kochi.

Applicant

By Advocate Mr P.P . Jacob

vs.

1. Union of India rep. By
its Secretary to Government of India,
Ministry of Defence,
New Delhi.
2. The Flag Officer Commanding in Chief,
Southern Naval Command,
Naval Base,
Kochi.
3. Office of the Commodore Superintendent,
Civilian Administrative Officer,
Naval Ship Repair Yard,
Kochi -2.
4. K.V. Ramanan,
Lascar I,
Naval Ship Repair Yard,
Kochi.
5. M.K.Prabhakaran,
Lascar I,
Naval Ship Repair Yard,
Kochi.
6. C.R. Haridas,
Lascar I,
Naval Ship Repair Yard,
Kochi.

7. A. Soman,
 Lascar I,
 Naval Ship Repair Yard,
 Kochi. Respondents

By Advocate Mr T.P.M. Ibrahim Khan, SCGSC (for R. 1 to 3)

By Advocate Mr T.C. Govindaswamy (for R. 4 to 7)

O.A. No. 820/2003

P.K. Sasi,
 Lascar I, Commander of Yard,
 Naval Ship Repair Yard,
 Kochi. Applicant

By Advocate Mr P.P. Jacob

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 its Secretary to Government of India,
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 Naval Ship Repair Yard,
 Kochi -2.
4. K.V. Ramanan,
 Lascar I,
 Naval Ship Repair Yard,
 Kochi - 4.
5. C.K. Sudhakaran,
 Lascar I,
 Naval Ship Repair Yard,
 Kochi - 4. Respondents

By Advocate Mr T.P.M. Ibrahim Khan, SCGSC (for R. 1 to 3)

By Advocate Mr M.M. Saidu Muhammed (for R. 4 & 5)

ORDER

HON'BLE MR H.P.DAS, ADMINISTRATIVE MEMBER

The applicant P.K.Sasi, working as Lascar I in Naval Ship Repair yard, Kochi has filed both these applications. O.A.820/2003 was filed during the pendency of O.A.303/2003.

2. In O.A.303/2003 he is challenging the order at A-7 of the 3rd respondent in that application, rejecting his representation for promotion to the rank of Syrang of Lascar on the ground that he is not in the feeder grade so as to be considered for promotion as per the Recruitment Rules. It is, however, the contention of the applicant that being senior to respondents 4 to 7 in that application, he was also entitled to the benefit of the order in O.A.689/2000 derived by respondents 4 to 7 who had filed that application but to which he was not a party.

3. In O.A.820/2003 he is challenging the order at A-8 of the 3rd respondent in that application, granting promotion to the 4th and 5th respondents as Syrang of Lascar overlooking his seniority.

4. The issues germane in both the applications arise out of the order of this Tribunal in O.A.689/ 2000, which followed O.A.553/1993. What the Tribunal had decided in these cases was that Lascars in Grade I, who possessed the certificate of Syrang ISV and were qualified to be appointed as Syrang of Lascar were obstructed in their career progression by the presence of unqualified seniors in the intermediary grades of Tindal of Lascar and Sukhani, while vacant posts of Syrang of Lascar continued to remain vacant for want of qualified hands, and therefore those in feeder grade be given six month's time to pass the

qualifying examination failing which the qualified hands languishing as Lascar be promoted as Syrangs of Lascar in relaxation of Recruitment Rules. The applicant claims in his applications that he possesses the required qualification and is senior to the applicants in O.A.689/2000 and therefore his right to promotion cannot be overlooked merely because he had not joined the applicants in staking his claim before the Tribunal.

5. The respondents in O.A.303/2003 contend that though the applicant possesses the required qualification, he cannot be promoted as Syrang of Lasar as no general relaxation of the recruitment rules has been permitted by the cadre controlling authority and promotions have been granted only to the applicants in O.A.689/2000 in compliance of the orders of the Tribunal. As the applicant in this O.A. was not an applicant in that O.A., the benefits accruing to them would not automatically accrue to the applicant in this O.A.

6. The same respondents in O.A.820/2003 however, go back upon their own statement in O.A.303/2003 and submit that the applicant does not possess the required qualification, apart from being ineligible under the Recruitment Rules.

7. Heard.

8. We have noted with displeasure the manner in which the respondents have dealt with an important matter like qualification prescribed in the Recruitment Rules. While in the reply statement in O.A.303/2003 they have unequivocally declared that the certificate of competence issued to the applicant under Rule 118 of Canal & Ferries Act is the same as certificate of Syrang ISV required under the Recruitment Rules, they have gone back on this stand in their reply statement in O.A.820/2003 citing a clarification obtained from the

Mercantile Marine Department to the effect that the certificate issued under the Canal & Ferries Act is not equivalent to the certificate of competency as Syrang issued by the Mercantile Marine Department under Inland Steam Vessel Act 1917. The respondents have emphatically stated in their reply statement in O.A.820/2003 that the certificate of Syrang ISV prescribed in the Recruitment Rules is the certificate of competence issued by the Mercantile Marine Department and not by the Chief Inspector of Boats under the Canals & Ferries Act. They have produced as evidence a notice issued by the Cochin Port Trust citing High Court judgment in O.P.No.6955/1998 which reads as follows:

"The Harbour Crafts plying within the Harbour limits should be manned by Serangs and Drivers holding the competency certificate issued as per Inland Steam Vessel Act 1917/Indian Shipping Act 1923 (MMD)"

9. In response to our pointed query as to the nature of the crafts the Syrangs would be expected to operate in the respondent's outfit and their operational limits, the learned counsel for the respondents clarified that the craft to be operated by the Syrangs would be harbour crafts within harbour limits and there are different technical parameters for certificate of competency from those adopted for operating in canals and ferries. He also admitted that the respondents' reply in O.A.303/03 was a mistake.

10. While accepting the contention of the respondents, we would still point out that the Recruitment Rules should be couched in unambiguous terms, particularly when basic qualifications are concerned. The respondents could have, without any difficulty, clearly specified that certificate of Syrang issued by the Mercantile Marine Department under the Indian Steam Vessel Act alone was acceptable. It is this lack of transparency in the Rules that aroused the hope of the applicant. While so, in consideration of the nature of duties to be performed

and the field of operation of the crafts, we accept the clarifications now furnished by the respondents.

11. Thus, the applicant, despite his seniority in the grade of Lascars would be ineligible for the post of Syrang of Lascars as he does not possess the required qualification. As he is unqualified, hence ineligible, he would not be within his rights to challenge the selection of his juniors who were considered eligible as they possessed the required qualification. The benefits of the Tribunal's decision in O.A.689/2000 therefore would not legitimately accrue to him. He would therefore be in no position to challenge the appointment of properly qualified juniors to the post of Syrang of Lascars.

12. In view of the above, we dismiss both the applications, leaving the parties to bear their own costs.

Dated, the 28th February, 2005.

H.P.DAS
ADMINISTRATIVE MEMBER

A.V.HARIDASAN
VICE CHAIRMAN

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