

CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O.A.No.31/98

Friday this the 24th day of April, 1998.

CORAM:

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

HON'BLE MR.S.K.GHOSAL, ADMINISTRATIVE MEMBER

Ukkas A.P.
Cable Jointer,
Electrical Sub Division, Amini Island,
Union Territory of Lakshadweep.Applicant

(By Advocate Mr. K.Balakrishnan)

vs.

1. Union of India represented by
Secretary, Ministry of Power, New Delhi.
2. Administrator, Union Territory of Lakshadweep,
Kavaratti.
3. The Executive Engineer,
Electrical Division,
Kavaratti.Respondents

(By Advocate Mr.S.Radhakrishnan, ACGSC)

The application having been heard on 24th April, 1998, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN:

The grievance of the applicant who is a Cable Jointer in the Electrical Sub Division, Union Territory of Lakshadweep is that the second respondent by amending recruitment rules for appointment to the post of Junior Engineer, notified and published in the official Gazette dated 1.7.97 has completely blocked the chance of promotion to Cable Jointers/Chargemen etc. to the post of Junior Engineer which they had under the recruitment rules prior to the amendment(Annexure A-4). While, according to the A-4 Recruitment Rules, the qualification prescribed for direct recruitment, namely, degree in engineering or diploma, was not applicable to promotees, all those in the

feeder category for which matriculation plus ITI certificate was essential qualification, were entitled to be considered for promotion towards 50% vacancy provided they had put in five years of regular service in the grade, but according to the impugned recruitment rules, unless the category of cable jointers/chargemen etc. possess the educational qualification required for direct recruitment, they would not be entitled for promotion. This, according to the applicant, is absolutely unjustified as those in the feeder category would remain where they are till their superannuation without any chance for advancement in their career. Aggrieved by this, applicant made a representation to second respondent on 8.8.97(Annexure A-6). Finding no response to this representation, applicant has filed this application for a declaration that Annexure A-5 Recruitment Rules is unconstitutional, arbitrary and unsustainable to the extent it makes the applicant ineligible for promotion as Junior Engineer by prescribing higher qualification for promotion, and for a direction to the respondents not to enforce Annexure A-5 against the applicant for promotion to the post of J.E.(Electrical). He has also prayed for a declaration that he is entitled to be promoted as per Annexure A-4 and direct the respondents to promote applicant to one of the vacancies that arose as a result of promotions under Annexures A-2 and A-3.

2. Respondents in their reply statement contest the application. It has been contended that it is the prerogative of the competent authority in the Government to prescribe qualification for appointment to the post, taking into consideration the relevant materials and that judicial intervention in such matters cannot be justified.

3. We have heard the learned counsel for the applicant as also for the respondents. It is evident on a comparison of

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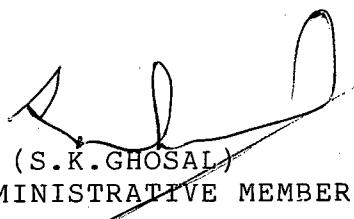
recruitment rules Annexure A-4 and Annexure A-5 that lower category officials who were eligible for promotion to the post of Junior Engineer under A-4 Recruitment Rules have now been made ineligible in the light of qualification prescribed for direct recruitment under Annexure A-5, unless they acquire the qualification prescribed for direct recruitment. It is undoubtedly the prerogative of the administration to prescribe educational and other qualifications for recruitment to various posts taking into account the job content and a variety of other relevant factors. Courts/Tribunals do not possess the expertise to dictate as to what should be the qualification for a particular post. However, it is also important that any person who enters service should have something to look forward, lest frustration would demoralise him. Therefore, while framing recruitment rules, this aspect should be taken care of by the competent authority. It is a fact not in dispute that Foremen, Chargemen, Cable Jointers etc. in the department cannot aspire for promotion in the existing situation unless they acquire the qualification of degree or diploma in Engineering. But it is for the competent authority to consider the matter and take a just decision. Therefore, we are of the considered view that the appropriate course open for us in this case is to direct second respondent to consider the representation of the applicant, taking into account that as it stands, there is no avenue for advancement of career for persons like the applicant and to take an appropriate decision within a short period.

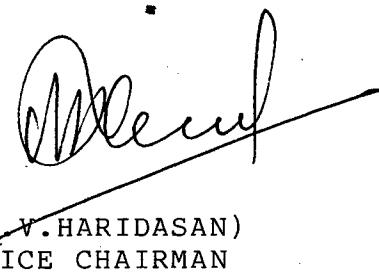
4. In the result, without entering into the merits or demerits of the case, we dispose of the application with a direction to the second respondent to consider Annexure A-6

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representation made by the applicant in the light of the observations made in the foregoing paragraphs and to give the applicant a speaking order within a period of four months from the date of receipt of a copy of this order. No order as to costs.

Dated the 24th April, 1998.


(S.K.GHOSAL)
ADMINISTRATIVE MEMBER


(A.V.HARIDASAN)
VICE CHAIRMAN

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LIST OF ANNEXURES

1. Annexure A2: Order No.F.No.36/7/91-Estt/Ele/1701 dated 31.7.1997 issued by the 2nd respondent.
2. Annexure A3: Order F.No.36/2/97-Estt/Ele/1792 dated 8.8.1997 issued by the 2nd respondent.
3. Annexure A4: Relevant extract of the Recruitment Rules F.No.24/82-Estt/Ele/785 dated 1.4.1983 issued by the 1st respondent.
4. Annexure A5: Relevant extract of the Recruitment Rules F. No.40/3/85-Estt/Ele. dated 29.5.1997 issued by the 1st respondent.
5. Annexure A6: Representation dated 8.8.1997 submitted by the applicant before the 1st respondent.

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