

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

OA No.307/97

Wednesday, this the 4th day of June, 1997.

C O R A M

HON'BLE SHRI AV HARIDASAN, VICE CHAIRMAN  
HON'BLE SHRI PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

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KR Krishna Kumar, S/o KR Ramachandran,  
Residing at Kallingal House,  
Paliyamthuruthu, Pizhala PO,  
Ernakulam District (Temporary Address:  
Kallingal House, Mahakavi Bharatiyar Road,  
Ernakulam District, Cochin--682 035).

....Applicant

By Advocate Shri MC Madhavan.

vs

1. Union of India represented by the  
Secretary to Government,  
Department of Personnel and Training,  
New Delhi.
2. The Deputy Director,  
Staff Selection Commission,  
Kendriya Sadan, 2nd Block, E Wing,  
Koramangla, Bangalore--560 034.
3. The Deputy Director,  
National Sample Survey Organisation,  
Block A, Ground Floor, Poonkulam,  
Vellayani PO, Thiruvananthapuram--695 022.

....Respondents

By Shri TPM Ibrahim Khan, Sr Central Govt Standing Counsel.

The application having been heard on 3rd June, 1997,  
the Tribunal delivered the following on 4th June, 97:

O R D E R

HON'BLE SHRI PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

Applicant appeared for a competitive examination for selection of candidates for appointment to the post of Investigator in the National Sample Survey Organisation. He came out successful in the written examination and appeared for an interview. At the interview, applicant produced a certificate from the Tahsildar, Kanayannur, that he belongs to a Backward Class. The result of

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the selection A.1 shows applicant under heading 'List of Provisional Candidates' and also indicates that his name has been recommended for appointment. Applicant, however, did not receive any formal appointment offer and on enquiry, he came to understand that the genuineness of A.3 community certificate produced by him at the time of interview was being verified. Thereupon, applicant took steps to contact the office of the Tahsildar and ensured that the reply of the Tahsildar was sent to the Staff Selection Commission. Despite the clearance of the certificate A.3 as genuine, applicant has not been appointed. Applicant contends that when the certificate A.3 was produced before the second respondent, he did not raise any objection with regard to the genuineness of the certificate. Respondents should also have kept a post vacant for appointing applicant as soon as the genuineness of the certificate was confirmed. Applicant, therefore, prays for a direction to the third respondent to appoint applicant as Investigator pursuant to the selection by the Staff Selection Commission with due rank and seniority.

2. Second respondent has filed a reply statement on behalf of the respondents stating that community certificate produced by the applicant was not found signed by the competent authority and, therefore, he was allowed to attend the interview provisionally subject to the confirmation of the genuineness of the certificate. Though the Commission promptly took up the matter with the Tahsildar, Kanayannur, there was delay in getting reply and as soon as the reply was received, the Commission cleared the candidature of the applicant and nominated him to the National Sample Survey Organisation on 17.9.96. The Commission had also advised the National Sample Survey Organisation to issue appointment orders to all candidates nominated by the Commission, including the applicant. In R-2(D) letter, the Commission had advised the National Sample Survey Organisation that 27 candidates

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had been nominated according to the requisition received and only 14 candidates have been offered appointment and requesting prompt issue of offers of appointment in respect of the other candidates. According to second respondent, the OBC certificate should have been signed by the Tahsildar and not by the Tahsildar Incharge.

3. The third respondent in his reply has stated that on receipt of the dossiers of selected candidates, offers of appointment were issued, but the vacancy position underwent drastic reduction because a decision was taken that 11 posts should not be filled up due to administrative reasons. Therefore, after the issue of the 14 offers of appointment on 9.9.96, no further offers were issued and the dossier of the applicant, having rank No.19, was received in the office only on 25.9.96. Though 16 posts were available on 9.9.96, only 14 candidates had been issued appointment offers and one post had been kept vacant for the applicant and one post for a Scheduled Tribe candidate. Thereafter, on 20.9.96, instructions were received not to fill up the post of Investigator sanctioned for the Enterprise Survey until further instructions and, therefore, no appointment offers could be issued to applicant. The third respondent also submits that applicant will be given the first priority as and when a vacancy arises and time may be given to make such an appointment offer to the applicant.

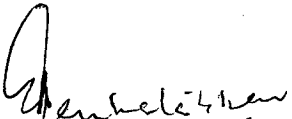
4. It is clear from the reply statement of the third respondent that as far as the OBC candidates are concerned, five vacancies were available on 9.9.96, when offers of appointment were issued to the other candidates. Out of these, four vacancies were filled up by candidates having ranks 18, 20, 21 and 22 keeping one post vacant for the applicant having rank No.19. But for the delay in verifying the community certificate of the

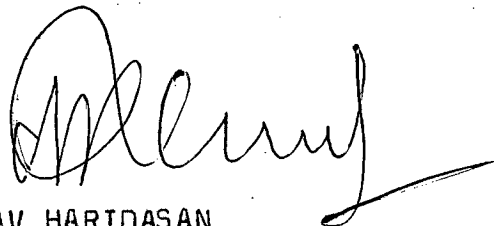
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applicant, the offer of appointment should have been issued to applicant on 9.9.96. It is also clear that all the persons who have been issued appointment offers on 9.9.96 have been permitted to continue despite the instructions not to fill up the post of Investigators sanctioned for the Enterprise Survey. Under these circumstances, we consider that applicant is entitled to get an offer of appointment despite the instructions issued subsequent to 9.9.96 stopping further filling up of posts.

5. We accordingly direct third respondent to appoint the applicant on a post of Investigator with effect from the date on which the person just below him under the OBC category was appointed, and to fix his seniority in accordance with his position in the panel, if he is not otherwise disqualified for such appointment. The above exercise should be completed within a period of one month from the date of receipt of a copy of this order. No costs.

Dated the 4th June, 1997.

  
PV VENKATAKRISHNAN  
ADMINISTRATIVE MEMBER

  
AV HARIDASAN  
VICE CHAIRMAN

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LIST OF ANNEXURE

1. Annexure A-1 : True copy of select list prepared and published by the second respondent in Employment News for August 3-9, 1996.
2. Annexure A-3 : True copy of certificate issued by the Tahsildar, Kanayannor Taluk dated 21-5-1996.
3. Annexure R-2(D): True copy of letter No.7/7/96-SSC(KK) dated 28-11-1996 of the 2nd Respondent.

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