

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

OA No.316/94

Wednesday, this the 9th day of November, 1994.

C O R A M

HON'BLE MR JUSTICE CHETTUR SANKARAN NAIR, VICE CHAIRMAN

HON'BLE MR PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

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1. PVP Pookunhikoya, WC Driver,  
C/o Assistant Engineer (Civil),  
Lakshadweep Public Works Department,  
Androth Island, UT of Lakshadweep.
2. K Aboo, WC Driver, Office of the  
Assistant Engineer (Civil), Lakshadweep  
Public Works Department, Androth Island,  
UT of Lakshadweep.

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....Applicants

By Advocate Shri Shafik MA.

Vs.

1. Superintending Engineer  
Lakshadweep Public Works Department,  
Kavaratti.
2. The Administrator,  
UT of Lakshadweep, Kavaratti.
3. Union of India represented by  
Secretary, Ministry of Home Affairs,  
New Delhi.
4. NP Hyder Ali, Neelathupura,  
Androth Island, UT of Lakshadweep.

....Respondents

R.1-3 by Advocate Shri MVS Nampoothiri.

R.4 by Advocate Shri MV Thampan.

O R D E R

PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

Applicants are confirmed work charged Drivers in the Office of the Assistant Engineer (Civil), Androth. They are also exservicemen. A post of Mechanic fell vacant and according to the recruitment rules, AR1, it is to be filled by promotion failing which

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by direct recruitment. Truck/Lorry/Tractor/Van Drivers in PWD of Lakshadweep Administration having five years service and having at least three years experience in an automobile or mechanical engineering workshop, are eligible for promotion.

2. Applicants were trade tested on 19.11.93 and the trade test board suggested applicant No.1 for the post of Mechanic provided a relaxation in the condition requiring three years experience in automobile/mechanical engineering workshop is given. The matter was considered by the Administrator, who rejected the request for relaxation stating:

"I am not inclined to relax the conditions for a mechanic just to promote a driver who has no experience of working in an automobile or mechanical engineering workshop and who can do nothing about the repairs of vehicles."

3. Following this decision, respondent No.4 was selected through direct recruitment and he has also joined duty. By reason of the Interim Orders of the Tribunal dated 22.3.94, this appointment is purely ad hoc.

4. The contention of the applicants is that, they are fully qualified for the promotion and do not require any relaxation. According to them, they have experience in military service and this can be considered as the requisite experience. Applicant No.1 has produced A-1 certificate of technical proficiency stating that he was technically tested and passed by a Technical Testing Board in accordance with the provisions of AI 39/S/47 in the category of Driver MT. According to the Administration the "technical examination conducted by the Technical Testing Board of Indian Army is only for muster (sic) the applicants permanently in the grade (sic) who

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is working there and this is not an additional qualification or experience in automobile or mechanical workshop.....Annexure A1 is only a test for muster (sic) the applicant permanently in the grade."

5. The pleadings do not enable us to decide whether the certificate (A-1) is to be considered as equivalent to three years' experience in an automobile or mechanical engineering workshop as required by the rules. It is for the Administration to find out the correct position. Apparently, they have decided that this is not an equivalent qualification and have considered the applicants for relaxation of rules. The Administrator rejected the request for relaxation in terms already stated above.

6. It is, however, noticed that the request for relaxation was rejected on the ground that applicant No.1 has no experience. He has, however, produced A-6 dated 15.2.94 in which the Assistant Engineer (PWD), Androth, has certified that "since 14.3.1984 (he) is attending all kinds of repairs of departmental tractors...is having a through (thorough) knowledge on engine sides of diesel/petrol engines". This certificate apparently was not before the Administrator when he took the decision not to grant relaxation. It would, therefore, be appropriate if the Administrator, 2nd respondent, reconsiders the matter in the light of the certificate A-6 and takes a decision whether any relaxation in the rule for experience can be granted in the case of first applicant.

7. Accordingly, we direct second respondent to reconsider the question of relaxation in qualification in the case of first applicant and pass appropriate orders within two months of today. Till such orders are passed, respondent No.4 would be allowed to continue

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LIST OF ANNEXURES

1. Annexure A1: True copy of Certificate of Technical Proficiency of the first applicant dated 30.1.1973.
2. Annexure A6: The photostat copy of the service Certificate No. Nil dated 15.2.1992 issued by the Assistant Engineer, PWD (Civil), Androth to the 1st Applicant.
3. Annexure R-1: A true copy of the Recruitment Rule No.F.No.E9/447/77-B2 dated 7.4.1977 issued by the 2nd Respondent.

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