

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.NO.334/2002

Monday, this the 3rd day of June, 2002.

CORAM;

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

HON'BLE MR T.N.T.NAYAR, ADMINISTRATIVE MEMBER

Anandarajan.S.

Peon,
Regional Health Office,
Government of India,
Meads Lane, Contonment,
Thiruvananthapuram-34.

- Applicant

By Advocate Mr V.S.Sudheer

Vs

1. Director General of Health Services,
(Medical Stores Organisation),
Government of India,
Ministry of Health & Family Welfare,
Directorate General of Health Services,
West Block-I, Wing-6,
R.K.Puram, New /Delhi-66.
2. The additional Director General(St.),
Directorate General of Health Services,
M.S.O., West Block No.1, Wing No.6,
kR.K.Puram, New Delhi-110 066.
3. The Deputy Director Administration(Rd),
Directorate General of Health Services,
Nirman Bhavan,
New Delhi-110 011.
4. The Regional Director,
Regional Health Officer for
Health & Family Welfare,
Government of India,
Meads Lane,
Contonment,
Thiruvananthapuram-695 034. - Respondents

By Advocate Mr C Rajendran, SCGSC

The application having been heard on 3.6.2002 the Tribunal on the same day delivered the following:

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O R D E R

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

The applicant who belongs to Scheduled Caste community, has been working as Group 'D' employee in the office of the 4th respondent for the last 13 years. He apprehends that one vacancy of LDC which would occur on 1.6.2002 on promotion of an LDC against the retired vacancy of UDC, would be filled by making direct recruitment or by transferring another LDC from outside and that if such an action is taken, his chances for promotion as LDC would get jeopardised. Therefore, the applicant has filed this application for a direction to the respondents to promote the applicant as LDC in the vacancy that would arise on 31.5.2002 and to permit him to continue as LDC with effect from 31.5.2002 in the Regional Office for Health and Family Welfare, Thiruvananthapuram.

2. Respondents have filed a reply statement before admission. It is indicated that the vacancy of LDC that arose on 31.5.2002 is to be filled by direct recruitment as it falls to the 90% quota for direct recruitment as per the Recruitment Rules and the applicant is to be considered on promotion quota against 10% vacancies for which Departmental examination would be held as and when vacancy would arise. Respondents contend that the applicant does not have a valid cause of action now.

3. After hearing the learned counsel on either side, we find that the applicant does not have a valid cause of action. The applicant can aspire for promotion against vacancy in 10% quota as per the recruitment rules to the post of LDC. There

is no specific averment in the application that the vacancy that arose on 31.5.2002 would fall to the 10% promotion quota, whereas there is a specific averment made by the respondents that the vacancy falls to the 90% direct recruitment quota which is not disputed by the applicant.

4. In the light of what is stated above, the application is rejected under Section 19(3) of the Administrative Tribunals Act, 1985. However, if the appointment made is against the rules or if any of the service rights of the applicant is violated, the applicant will be at liberty to seek appropriate relief in that regard, in accordance with law.

Dated, the 3rd June, 2002.


T.N.T. NAYAR
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

trs.

APPENDIX

Applicant's Annexures:

1. A-1: True copy of the office order dated 18.7.88 of the Regional Director (HFW).
2. A-2: True copy of the certificate dated 23.4.2002 issued to the applicant.
3. A-3: True copy of the promotion order No.RHD/TVM/II-34/99/184 dated 28.7.99.
4. A-4: True copy of the order dated 27.11.2000 of the Regional Director (HFW).
5. A-5: True copy of the letter No.RHD/TVM/LDC/2002/223 dated 28.1.2002 of the 4th respondent issued to the 3rd respondent.
6. A-6: True copy of the representation dated 5.12.2001 submitted by one Ajith Kumar to the 2nd respondent.
7. A-7: True copy of the letter No.PES/ADMN/AK/Trf./7826 dated 11.12.2001 of the 4th respondent.
8. A-8: True copy of the letter No.A-12012/11/2000-St-1 dated 15.1.2002 of the Regional Health Officer, Thiruvananthapuram.
9. A-9: True copy of the representation dated 15.4.2002 submitted by the applicant before the 4th respondent.

Respondents' Annexures:

1. R-1: True copy of extract of Recruitment Rules published in Gazette of India.
2. R-2: True copy of Annexure III for promotion published in Swamy's Compilation on reservations & concessions for SC&ST, OBC (Mandal Commission) in Govt. Service.

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