

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH  
ERNAKULAM

DATE OF DECISION: 12TH JANUARY, 1990

PRESENT

Hon'ble Shri S.P.Mukerji, Vice Chairman  
&  
Hon'ble Shri A.V.Haridasan, Judicial Member

ORIGINAL APPLICATION NO.334/89

P.P. YACOB .. Applicant

Vs.

1. The Union of India represented  
by the Secretary,  
Ministry of Defence,  
New Delhi.

2. The Flag Officer Commanding-  
in-Chief, Headquarters,  
Southern Naval Command,  
Cochin-682004. .. Respondents

Counsel for the applicant .. Mr.M.Girijavallabhan

Counsel for the respondents .. Mr.Thangakoya Thangal,  
ACGSC.

O R D E R  
(Hon'ble Shri S.P.Mukerji, Vice Chairman)

In this application filed under Section 19  
of the Administrative Tribunals Act, the applicant  
has prayed that he should be appointed against one  
of the vacancies of the post of Rigger (Skilled) which  
arose in 1988 without calling for any departmental  
and other candidates to fill up the vacancies. The  
facts of the case are as follows.

2. Against two vacancies of which one was

members of the reserved for Scheduled Castes, the respondents conducted the prescribed test in 1987. None of the departmental candidates passed the test and an ex-serviceman and the applicant were selected. The ex-serviceman was given the only one available vacancy for the general candidates in preference to the applicant as the former was an ex-serviceman and also because he had scored the highest marks in the test. However, the applicant was given an assurance in the respondent's letter dated 24th February, 1988 at Annexure R.3 to the effect that "you have been provisionally selected and your name has been kept in the waiting list for appointment against the anticipated vacancy".

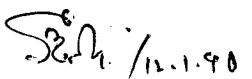
3. The learned counsel for the respondents indicated that during 1988 some vacancies arose but since departmental candidates were available, they were filled up by appointment of departmental candidates who passed the test. Shri Thangakoya Thangal, learned counsel for the respondents pointed out that in accordance with the Recruitment Rules, the vacancies have to be filled up by qualified departmental candidates failing which alone the question of appointment of candidates from outside arises. Since there are other departmental candidates

waiting in the panel, the question of accommodating the applicant against the vacancies available in 1988 does not arise. The learned counsel for the applicant, however, brought to our notice the order of the Madras Bench of the Tribunal dated 10th November, 1986 in T.A.773/86 in which under identical circumstances and on the basis of the assurance of the respondents in that case, an open market selected candidate was given the assurance that the respondents will appoint him against the future vacancy.

4. In the conspectus of facts and circumstances we close this application with the direction that the applicant <sup>should</sup> ~~will~~ be considered for appointment to the next available vacancy in accordance with the Recruitment Rules before any candidate from the open market is called upon for selection. There will be no order as to costs.



(A.V. HARIDASAN)  
JUDICIAL MEMBER



S.P. MUKERJI  
VICE CHAIRMAN

12-01-1990

Ksn.