

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No.341/98

Tuesday this the 12th day of December, 2000.

CORAM

HON'BLE MR. A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR. T.N.T.NAYAR, ADMINISTRATIVE MEMBER

N.K.Karunakaran Nair
S/o Late Ravunni Nair
Administrative Officer
Commander Works Engineers Office
Kataribagh, Naval Base P.O.
Cochin-4, residing at MES
Quarters No.51/4, Kataribagh
Naval Base P.O., Kochi.

...Applicant

By advocate Mr. M.R.Rajendran Nair

Versus

1. Union of India represented by the
Secretary, Ministry of Defence
New Delhi.
2. The Engineer-in-Chief, Kashmir House
Army Headquarters, DHQ P.O.
New Delhi.
3. The Chief Engineer (Navy)
Kataribagh, Naval Base P.O.
Cochin.
4. The Commander Works Engineers
Kataribagh Naval Base P.O.
Cochin.4.

...Respondents

By advocate Mr. Govind K.Bharathan, SCGSC

The application having been heard on 12th December, 2000,
the Tribunal on the same day delivered the following:

O R D E R

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

This application has been filed for the following
reliefs:

- i) To quash Annexure A7.
- ii) To declare that the applicant is entitled to be
considered for promotion as Administrative Officer
Grade I on the basis of his seniority in the category
of Administrative Officer Grade II reflected in A1
seniority list dated 27.2.97 ahead of any persons
promoted as Administrative Officer Grade-II subsequent
to 11.7.90.
- iii) To direct the respondents to consider the applicant
for promotion to the category of Administrative Officer
Grade I on the basis of his seniority in the category of
Administrative Officer, Grade-II reflected in Annexure A1
seniority list dated 27.2.97 ahead of any persons promoted
as Administrative Officer Grade II subsequent to 11.7.90.

2. Respondents have filed a detailed reply statement contesting the claim of the applicant.

3. When the application came up for final hearing today, learned counsel of the applicant stated that the applicant would be satisfied if he is allowed to make a representation to the 2nd respondent within 3 weeks for assigning proper seniority according to the order at Annexure A10 and if the 2nd respondent is directed to consider and dispose of the same giving an appropriate reply within a reasonable time. Learned counsel for respondents stated that there is no objection to the disposal of the OA in the said manner.

3. In the result, in the light of what is stated by the learned counsel on either side, the application is disposed of permitting the applicant to make a representation within 3 weeks from today to the 2nd respondent for assigning proper seniority and directing the 2nd respondent that if such a representation is received, the same shall be considered in accordance with the rules, rulings and instructions on the subject and disposed of giving the applicant an appropriate reply within 3 months from the date of receipt of the representation. No order as to costs.

Dated 12th December, 2000.



T.N.T. NAYAR
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

aa.

Annexures referred to in this order:

- A7: True copy of letter No.41206/EIR(Sub) dated 28.8.97 issued on behalf of 2nd respondent.
- A1: True copy of the seniority list of Administrative officers circulated as per letter dated 27.2.97 No.A41106/AO-II/97-98 EIR(O) issued for 2nd respondent.
- A10: True copy of SRO No.41/5/85 dated 22.8.85 of the Chief Engineer, Southern Command, Pune.

M.A.No.63/2001 and 64/2001 in O.A.341/98

24.4.2001

Sri M.R.Rajendran Nair
Sri Govindh K Bharathan, SCGSC

The Miscellaneous Applicant had filed the Original Application for a declaration that he is entitled to be considered for promotion a Administrative Officer Grade-I on the basis of his seniority in the category of Administrative Officer Grade-II reflected in the Annexure A1 seniority list dated 27.2.97 ahead of any persons promoted as Administrative Officer Grade -II subsequent to 11.7.90 and for direction to the respondents to consider him for promotion.

2. When the Original Application came up for final hearing, the learned counsel of the Miscellaneous Applicant stated that the applicant would be satisfied if he was allowed to make a representation to the second respondent within 3 weeks for assigning proper seniority according to the order at Annexure A10 and if the second respondent is directed to consider and dispose of the same giving an appropriate reply within a reasonable time, which was agreed to by the learned counsel of the respondents. On the above submission of the learned counsel on either side, O.A. was disposed of permitting the miscellaneous applicant to make a representation within 3 weeks from the date of the order namely, 12th December, 2000 and with a direction to the second respondent that if such a representation is received, the same should be considered and disposed of within 3 months from the date of receipt thereof. The Miscellaneous Applicant who is the Original Applicant has filed

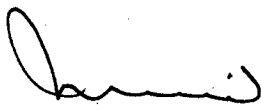
M.A.64/2001 praying that time for submitting the representation granted vide the order dated 12.12.2000 may be extended till 9.1.2001, because on account of the Postal Strike, the applicant did not receive communications sent by his counsel, so could make the representation only on 9.1.2001. As the Miscellaneous Application for extension of time was not filed within the time stipulated in the order, the Miscellaneous Applicant has filed M.A.No.63/2001 for condonation of delay.

2. The respondents have filed replies to both these M.As. It has been stated that the M.A. for extension of time was not made before the time originally stipulated in the order expired. The applicant has no right to claim extension of time and both these M.As. are to be dismissed.


3. We have heard the learned counsel on either side.

4. If a party who is bound by an order of the Tribunal to carry out a direction within the stipulated time finds it impossible to do so within that period, extension of time has got to be obtained by approaching the Tribunal before the expiry of the period. M.A. for condonation of delay in filing an application for extension of time, would not therefore, generally be entertained, the reason being that Rule 24 of the Central Administrative Tribunal(Procedure)Rules is to be exercised for the purpose of giving effect to the Tribunal's order and that for not giving effect to this case, there is a special circumstance. The applicant could not make the representation or file

M.A.64/2001 for extension of time because he was not aware of the direction of the Tribunal to make a representation within 3 weeks because of the postal strike. Since the applicant did not get information of the order dated 12.12.2000 prior to 9.1.2001 when he made the representation, we are of the considered view that there was no delay. Hence M.A.No.63/2001 has in fact been filed by way of abundant caution. The order of the Tribunal was passed to enable the applicant to make a representation regarding the grievances and also the competent authority to consider the same. Unfortunately for the applicant for want of communication he could not make a representation in time. We are therefore of the considered view that in the interest of justice, with a view to give effect to the Tribunal's order, the respondents are to be directed to consider the representation submitted by the applicant on 9.1.2001 within 3 months from the date of its receipt. We therefore do so and dispose of these two Miscellaneous Applications accordingly.



TNTN/AM



AVH/VC

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