

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No. 354 of 2009

.....Monday, this the 12th day of December, 2011

CORAM:

**Hon'ble Mr. Justice P.R. Raman, Judicial Member
Hon'ble Mr. K. George Joseph, Administrative Member**

K.S. Radhakrishnan,
S/o. K.V. Sathyan,
Leading Hand Fire (Selection Grade),
Fire Station, I.N.S. Garuda,
Naval Base, Cochin – 4,
Residing at 'Kalaricakal House',
Perumpadanna, North Parur,
Ernakulam District : 683 513

... **Applicant.**

(By Advocate Mr. Shafik M.A.)

v e r s u s

1. Union of India, represented by
Secretary to the Government of India,
Ministry of Defence, New Delhi.
2. The Chief of Naval Staff,
Naval Headquarters, New Delhi.
3. The Flag Officer Commanding in Chief,
Southern Naval Command,
Cochin – 4

... **Respondents.**

(By Advocate Mr. Sunil Jacob Jose)

This application having been heard on 25.11.2011, the Tribunal
on 12.12.2011.... delivered the following:

ORDER

Hon'ble Mr. K. George Joseph, Administrative Member -

This O.A has been filed by the applicant praying for the following reliefs:



- (i) To call for the records relating to Annexures A-1 to A-8 and to quash A-2 and A-1 to the extent it includes the category of Fire Engine Drivers as the feeder category for the post of Supervisor (Fire), being illegal, arbitrary and against public interest;
- (ii) To declare that the cadre of the applicant, i.e. LHF(SG) and (OG) alone are entitled to be considered for promotion to the cadre of Supervisor (Fire) being the most experienced from among the cadres of total Fire staff and to direct the respondents to promote them to the ensuing vacancies of Supervisor (Fire), considering their seniority also;
- (iii) To direct the respondents to regularise the intake of personnel to the post of Supervisor (Fire) by experienced personnel after evaluating all factors, if necessary by amending the Recruitment Rules, in the interest of justice;
- (iv) To pass any other orders which this Hon'ble Court may deem fit and proper in the circumstances of the case; and
- (v) To award cost of this proceedings.

2. The applicant is presently working as Leading Hand Fire (LHF) under the Flag Officer Commanding in Chief, Southern naval Command, Cochin. The next post which he can aspire to is the Supervisor (Fire). As per the amendment made to the Recruitment Rules in 1988, the cadre of Fire Engine Drivers (FEDs) are also included in the feeder cadre for the post of Supervisor (Fire).

3. The applicant submitted that the action of the respondents in issuing Annexure A-1 Recruitment Rules for promotion to the post of Supervisor (Fire) with 50% of the posts earmarked for FEDs when the posts of Fire Supervisor are to be granted wholly to the senior staff having experience in fire fighting rather than FEDs, is highly illegal and arbitrary. The post of Supervisor (Fire) is a key post among the total of 24 Fire Crew posts. A person who is driving



a fire engine and tending the pump is not in a position to supervise the total crew of FEDs and the Firemen. The duties and responsibilities of the Supervisor (Fire) is to effectively supervise and guide the subordinate staff. A person to be promoted to that post should necessarily have training in handling all types of fire fighting appliances and equipments and experience in various types of fire fighting, such as Ordinary Fire, Chemical Fire, Electric Fire, Petrol and Oil Fire and Explosive Fire. A Fire Engine Driver, who is always on the steering wheel should at least undergo training or departmental trade test before being promoted as Supervisor (Fire), which is not the case at present. The cadre of LHF is having a higher pay scale than that of cadre of FED. The provision for promotion of FED as Supervisor (Fire) was made at a time when the pay scales of both the posts of LHF and FED were the same. An FED promoted as Supervisor will never be getting actual experience and knowledge of actual combating the different types of fires as he fully engaged in driving and tending of the fire engine. A totally inexperienced person, like FED, is being given preference and reservation in appointment to a supervisory post requiring expertise in fire fighting. This is arbitrary and discriminatory. Unequals are being treated equally by bringing in a lower cadre with no expertise in fire fighting.

4. The respondents in their reply statement submitted that promotions were effected from both the above feeder categories of LHF and FED as per the Recruitment Rules. The personnel from Fireman stream reach the feeder category of LHF (SG) for promotion to the grade of Supervisor (Fire) after crossing 3 stages whereas FED-II has only one stage to cross to reach the feeder grade of FED-I. The vacancy based rotation method of promotion in

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50:50 ratio resulted in excess representation of FEDs in Supervisor (Fire) grade. Presently, promotion to Supervisor (Fire) is being effected on post based rotation in the ratio of 50:50. The respondents are bound to follow the Annexure A-1 Recruitment Rules, which is statutory in nature. In view of equal representation from LHF and FED as per the Recruitment Rules, the applicant has no case to agitate.

5. We have heard Mr. Shafik M.A, learned counsel for the applicant and Mr. Sunil Jacob Jose, learned SCGSC appearing for the respondents and perused the records.

6. It stands to reason that a LHF with his ability, experience and training in fire fighting is a better choice for the post of Supervisor (Fire) than a FED, whose expertise is in driving. The Supervisor (Fire) has to effectively supervise and to train the subordinate staff in fire fighting. A FED is not expected to have the ability to impart training for the Fire Crew and to do the maintenance of all fire fighting equipments. Yet a FED without having undergone a training or a departmental trade test or experience in fire fighting is promoted as Supervisor (Fire) and is made to supervise fire fighting.

7. A LHF is having higher scale of pay than a FED. The FEDs have another avenue of promotion. The FEDs have no qualification or experience in fire fighting. Therefore, the respondents should consider whether it is necessary to curtail the chances of promotion of LHFs by giving preference and benefit of reservation of 50% of posts to FEDs in the matter of promotion to the post of Supervisor (Fire), which is a key post among a total of 24 crew

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posts.

8. In the given circumstances, it would appear that there is discrimination against LHF s in the matter of promotion to the post of Supervisor (Fire). Prima facie, there is unfair advantage to the FEDs in keeping 50% of posts reserved for them, though they do not have qualification or experience in fire fighting. The respondents themselves admitted that the vacancy based rotation method of promotion in 50:50 ratio resulted in excess representation of FEDs in Supervisor (Fire) grade. Moreover, they reach to the grade of Supervisor (Fire) after crossing only 2 stages, whereas the LHF s have to cross 4 stages to reach the post of Supervisor. The duties of LHF s differ from that of FED. The method of granting promotion to the post of Supervisor (Fire) adopted by the Army, Air Force appear to be more reasonable and equitable than the method adopted by the Navy.

9. O.A. No. 824/2004 filed by LHF s was disposed of by this Tribunal on 09.02.2007 with a direction to the applicants therein to file a representation to the respondents who appeared to be inclined to consider the case of the applicants. The fate of the representation at Annexure A-5 is not known. The inclination of the respondents to consider the case of the applicants, shown years ago needs to be translated into positive action without further delay.

10. The FEDs are not a party to this O.A. As they were not heard, we do not enter a finding as to the illegality and arbitrariness in including the FEDs in the feeder category for the post of Supervisor (Fire) and the order at Annexure A-2 issued by the 3rd respondent.

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11. Having regard to the facts and circumstances of the case, we are of the view that the grievance of the applicants should be dealt with expeditiously by the respondents. In doing so, they should consider whether the Recruitment Rules for the post of Supervisor (Fire) in the Navy should be at par with the Recruitment Rules for the same in the Army and the Air Force. If necessary, they should consider amendment of the Recruitment Rules in the interest of justice and fair play.
12. In the result, the O.A. is partly allowed as under.
13. The applicant should file a representation regarding his grievance to the 2nd respondent through proper channel. The 2nd respondent is directed to ensure the disposal of the representation of the applicant by a speaking order within a period of 4 months from the date of receipt of the same, after hearing all affected parties.
14. No order as to costs.

(Dated, the 12th December, 2011)



(K. GEORGE JOSEPH)
ADMINISTRATIVE MEMBER



(JUSTICE P.R. RAMAN)
JUDICIAL MEMBER

cvr.