

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM

O. A. No. 360  
T. A. No.

1990

DATE OF DECISION 28.6.90

T. X. Sebastian Applicant (s)

M. Girijavallabhan Advocate for the Applicant (s)

Versus

UOI rep. by Secretary, Agriculture & another Respondent (s)

Ms K. B. Subhagamani, ACGSC Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. M. Y. PRIOLKAR, ADMINISTRATIVE MEMBER

The Hon'ble Mr. N. DHARMADAN, JUDICIAL MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? No
3. Whether their Lordships wish to see the fair copy of the Judgement? No
4. To be circulated to all Benches of the Tribunal? No

JUDGEMENT

HON'BLE SHRI N. DHARMADAN, JUDICIAL MEMBER

The applicant who is now working as Chief Engineer Grade II on the pay scale of Rs. 2375-3500 on ad hoc basis w.e.f. April, 1987 under the second respondent has approached this Tribunal challenging Annexure-C, a notification issued by the second respondent inviting application for making regular selection and appointment to the above post on deputation. The last date fixed for submission of the application under the said notification was 30.4.90.

The applicant approached this Tribunal and challenged the notification on various grounds without submitting

an application presumably because if he submits an application he would be faced with the plea of acquiescence. In this application his contention is that he is fully eligible and qualified on the basis of the existing rules and he can be posted in one of the two existing vacancies without inviting an application and calling for deputation from other departments.

2. When the matter came up for hearing last time after admitting the Original Application, we directed the ACGSC appearing on behalf of the respondents to get instructions and produce before us the relevant rules governing the appointment of Chief Engineer Grade-II. Accordingly, she has produced the rules dealing with the selection and appointment to the post of Chief Engineer. <sup>Grade II is</sup> Under these rules the post of Chief Engineer can be filled up either by transfer or by promotion. The applicant can also apply for the post <sup>and by</sup> along with others <sup>and by</sup> put forward his superior claim for selection and posting on account of his service under the respondents.

3. Under these circumstances, we feel that this application is premature and that the applicant's claim for appointment to the post can be considered by the second respondent in the light of the provisions of the aforesaid rules. The learned counsel for the respondents also submitted that the applicant can also submit an application in terms of Annexure-C and if such

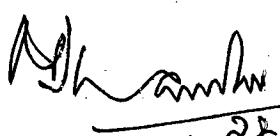
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an application is filed it will be considered along with other applications.

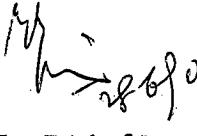
4. Accordingly after hearing the counsel on both sides we are of the view that this application can be disposed of in the interest of justice, by issuing the following direction:

- (i) The applicant shall submit an application for considering his claim for appointment to the post of Chief Engineer Grade II, by the second respondent in terms of Annexure-C notification, within a week from today;
- (ii) If the applicant submits such an application the second respondent shall consider the claim of appointment of the applicant as Chief Engineer, Grade II, in the light of his ad hoc service of the applicant rendered by him, notwithstanding the last date of receipt of the application fixed in Annexure-C.

5. The application is disposed of in the above lines but without any order as to costs.

  
(N. Dharmadan) 28.6.90

Judicial Member

  
(M.Y. Palkar)  
Administrative Member

KMB