

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO. 39 OF 2011

Monday, this the 11th day of July, 2011

CORAM:

**HON'BLE Mr.JUSTICE P.R.RAMAN, JUDICIAL MEMBER
HON'BLE Mr. K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

K.A.Mohammed Manikfan
Junior Scientific Officer
Department of Science & Technology
UT of Lakshadweep
Kavaratti

... Applicant

(By Advocate Mr. M.P.Krishnan Nair)

versus

1. Union of India represented by the Administrator
Union Territory of Lakshadweep
Kavaratti – 682 555

2. The Director
Department of Science & Technology
Union Territory of Lakshadweep
Kavaratti – 682 555

3. Shri P.Pookoya
Technical Officer
Department of Science & Technology
Union Territory of Lakshadweep
Kavaratti – 682 555

... Respondents


(By Advocate Mr. S.Radhakrishnan (R1&2)
Advocate Mr.C.Khalid (R-3))

The application having been heard on 11.07.2011, the Tribunal on the same day delivered the following:

ORDER

HON'BLE Mr.JUSTICE P.R.RAMAN, JUDICIAL MEMBER

The applicant was appointed as Technical Assistant in the Department of Science and Technology in the Lakshadweep Administration with effect from 26.02.1990 against a regular post and his probation was also successfully declared. He was subsequently promoted as Junior Scientific Officer with effect from 11.06.2001. The 3rd respondent was a



direct recruitee appointed to the post of Junior Scientific Officer / Technical Officer with effect from 03.02.1999. Going by the date of appointment of the 3rd respondent with reference to the date of promotion of the applicant admittedly 3rd respondent is shown as senior to the applicant in the cadre of Junior Scientific Officer / Technical Officer. When the seniority list was published, in April, 2010, the applicant noticed that he is junior to the 3rd respondent and accordingly he made representation before the authorities, Annexures A-5 and A-6 seeking for a review of the final seniority list and protect his seniority in the Department. As per the guidelines for preparing the panel in the case of promotion, as per DOPT OM No.22011/8/87-Estt (D) dated 09.04.1996 produced as Annexure R-1(e), promotion will have only prospective effect even in cases where the vacancies relate to earlier years. (Clause 6.4.4). Since in the case of the applicant he was promoted based on the Departmental Recommendation Committee held in 2001, the promotion cannot be ante dated. According to the applicant, and going by Annexures A-5 and A-6 representation, his grievance is that he ought to have been considered for promotion earlier and according to him the reason for non consideration of his case for promotion is stated to be for want of ACRs and according to him this cannot be a reason since he has submitted the ACR much earlier. According to the respondents, the applicant submitted his ACR on 30.01.1999 along with the covering letter which is produced as Annexure R-1 (a). But by the time his case for promotion was considered, there was a ban on appointment and the ban was removed on 23.10.2000 only. These facts are beyond dispute. Admittedly, the 3rd respondent himself was appointed in 1991 before the ban was imposed on 05.08.1991. However, there was a gap of few months in between we cannot possibly consider this few months delay in



considering the promotion of the applicant as deliberate or purposeful. There is no material to show that he has submitted his ACR on a date prior to 30.01.1999.(Annexure R-1(a)). Therefore, the contention of the applicant that he ought to have been considered for promotion even on a much earlier date before the 3rd respondent was appointed has no merit. As per the Recruitment Rules, the method of appointment is 50% by Direct Recruitment and 50% by promotion. There is no rule that promotion should precede the direct recruitment. If there is no ban the applicant would have been promoted more or less during the same time or at least in the same year. Even if the applicant's promotion was on a day after the appointment of 3rd respondent certainly the applicant has to be treated as junior to 3rd respondent. Therefore, for the limited purpose of seniority between the applicant and the 3rd respondent is concerned, we do not find any merit in the contention of the applicant that he ought to have been promoted earlier to the appointment of 3rd respondent so as to become senior to the 3rd respondent whereby he would have become eligible for further promotion before 3rd respondent is promoted. There is no substance in the contention raised. We do not find that the promotion of the applicant is purposefully denied so as to claim the reliefs as sought for in the OA.

2. In the result, we find no merit in the OA and accordingly it is **dismissed**. No costs.

Dated, the 11th July, 2011.


K GEORGE JOSEPH
ADMINISTRATIVE MEMBER


JUSTICE P.R. RAMAN
JUDICIAL MEMBER