

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No. 384 of 1994

Tuesday this the 17th day of January, 1995

CORAM

HON'BLE MR.JUSTICE CHETTUR SANKARAN NAIR, VICE CHAIRMAN

HON'BLE MR. P.V.VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

C.G.N.Menon,
Inspector of Works (Mechanical)
Lakshadweep Harbour Works,
Amini. ... Applicant

(By Advocate Mr. M.R.Rajendran Nair)

Vs.

1. The Deputy Chief Engineer-B
Lakshadweep Harbour Works, Kozhikode.
2. The Chief Engineer & Administrator,
Andaman and Lakshadweep Harbour Works,
Portblair.
3. Union of India, represented by
Secretary to Government of India,
Ministry of Surface Transport,
New Delhi.
4. Chakraborty D.K. Assistant Engineer,
Andaman Lakshadweep Harbour Works,
Marine House, Calcutta-700 022.
5. Surendra Babu A, Assistant Engineer,
Lakshadweep Harbour Works, Androth
Union Territory of Lakshadweep.
6. (deleted from party array vide order in MA 1066/94)
7. Verma B.R.K. Assistant Engineer, C/o Deputy
Chief Engineer, Andaman Lakshadweep Harbour
Works, Portblair-744101.
8. Ramakrishnan G, Assistant Engineer,
C/o Deputy Chief Engineer-III,
Andaman Lakshadweep Harbour Works,
Campbed Bay PO.
9. Francis C.M. Assistant Engineer,
c/o Deputy Chief Engineer, Andaman Harbour
Works, Campbed Bay PO.
10. Murugabhoopathy K.R. Assistant Engineer
C/o Deputy Chief Engineer,
Andaman Harbour Works,
Campbed Bay P.O. Respondents

(By Advocate Mr. K.S.Bahuleyan for Sr.C.G.S.C)
(R. 1to3)

O R D E R

CHETTUR SANKARAN NAIR(J), VICE CHAIRMAN

Applicant seeks a declaration that his seniority in the grade of Inspector of Works (Mechanical) is liable to be reckoned from the date of his initial appointment as Inspector of Works (Shipwright) on 17.1.77. Ancillary reliefs are also prayed for.

2. On 17.1.77 applicant commenced service as Inspector of Works (Shipwright) in the scale Rs.550-750. This was an isolated post, with no promotional prospects. Presumably, to open promotional avenues the post of Inspector of Works (Shipwright) was integrated with the post of Inspector of Works (Mechanical), also in the same scale. According to applicant he is entitled to count seniority from 17.1.77, since the posts are equated and the normal rule to reckon seniority is the length of service. He refers to A12A Seniority List of Inspector of Works (Mechanical) as on 30.9.91, to illustrate his point that he is senior to respondents 4 to 10. Applicant's name figures at Sl.No.8 and his date of appointment in the present grade is shown as 17.1.77. Respondents 4 to 10 figure at Sl.Nos. 1 to 7 and their dates of appointment in the present grade are shown as 14.2.84, 14.2.84, 14.2.84, 14.2.84, 11.11.84, 7.11.84 and 2.7.86, in that order. The correctness of A12A is not disputed by the respondents either. We would therefore take it that the date of appointment of applicant in the present grade was much earlier than the date of appointment of party respondents 4 to 10.

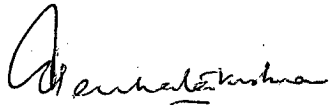
3. The question that arises for consideration is whether applicant who entered the grade on an earlier date should rank above respondents 4 to 10 or below them. Ordinarily an official who enters a grade earlier is senior to those who enter later. But this is an extraordinary case, submits counsel for respondents. Extraordinary it is, because applicant with no promotional prospects was integrated into a cadre with promotional prospects, solely to help him and not to depress the promotional prospects of those in position on the date of his induction. We are not required to consider the general position. We need only consider the position after the fusion of the two groups. After merging the officials who came from two sources into one, a Seniority List was published. Applicant was shown therein at Sl.No.1. But consequent on the complaint made by others in the service, the ranking given to him was varied.


4. Even if a special protection is justified in the case of officials who are in position on the date of integration, after two groups are fused together there is no justification for differential treatment based on the sources from which the different groups came. It may be (in some cases) that a new entrant is placed at the lowest rung in the Seniority List. But after he becomes part of the cadre, he cannot be treated differently. If authority is needed for this proposition it is found in Mervin Vs. Collector of Customs, AIR 1967 SC 52, Amrit Lal Vs. Collector, CEC, AIR 1975 SC 538 and S.P.Kapoor Vs. State of H.P., AIR 1981 SC 2181.

5. Those officials who were holding the post of Inspector of Works (Mechanical) on the date of his induction could be ranked above applicant. But that cannot be perpetuated indefinitely keeping applicant at the lowest rung of the Seniority List for all times and allowing every fresh entrant to overtake him. Applying the principles in Mervin's case (AIR 1967 SC 52), we hold that those who entered the grade after applicant was appointed as Inspector of Works (Mechanical) should rank below him. Respondents 4 to 10 have not appeared or contested the claims of applicant though notice was served on them. The seniority of applicant will be refixed on this principle treating his date of induction into the cadre of Inspector of Works (Mechanical) as 1.3.1978. Necessary orders will be passed in the matter within six months of today by modifying the existing Seniority List (A.12A).

6. Application is allowed. Parties will suffer their costs.

Dated the 17th day of January, 1995.


P.V. VENKATAKRISHNAN
ADMINISTRATIVE MEMBER


CHETTUR SANKARAN NAIR(J)
VICE CHAIRMAN

List of Annexures

1. Annexure-XII(A): True copy of the Seniority list as on 30.9.1991 in respect of Inspector of Works (Mech) Group(C' Non-Gazetted) In Andaman Lakshadweep Harbour Works issued by 2nd respondent to the applicant.