

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.403/07

Wednesday this the 3rd day of September 2008

C O R A M :

**HON'BLE Mr.GEORGE PARACKEN, JUDICIAL MEMBER
HON'BLE Ms.K.NOORJEHAN, ADMINISTRATIVE MEMBER**

1. B.Kunhikoya,
S/o.K.K.Sayed Mohammed Koya,
Seacunny, Lakshadweep Harbour Works, Andrott.
Residing at Keecheri Desom, Andrott – 682 551.
2. T.Kunhiseethi,
S/o.Siddeeq,
Seacunny, Lakshadweep Harbour Works, Andrott.
Residing at Keecheri Desom, Andrott – 682 551.
3. A.P.Koyamma,
S/o.Ali Mohammed,
Seacunny, Lakshadweep Harbour Works, Andrott.
Residing at Keecheri Desom, Andrott – 682 551.Applicants

(By Advocate Mr.M.R.Hariraj)

Versus

1. Union of India represented
by the Secretary to Government of India,
Ministry of Surface Transport, New Delhi.
2. The Administrator,
Union Territory of Lakshadweep,
Kavarathi.
3. Chief Engineer and Administrator,
Andaman & Lakshadweep Harbour Works,
Port Blair.
4. The Deputy Chief Engineer,
Lakshadweep Harbour Works,
Kavarathi.Respondents

(By Advocate Mr.S.Radhakrishnan [R2-4])

This application having been heard on 3rd September 2008 the
Tribunal on the same day delivered the following :-

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ORDER

HON'BLE Mr.GEORGE PARACKEN, JUDICIAL MEMBER

The applicants have filed this O.A before this Tribunal seeking the following reliefs :-

1. Direct the respondents to consider the applicants for grant of financial upgradation under ACP Scheme to the applicants with effect from the dates on which they completed 12 and 24 years of service and to grant them consequential benefits including arrears of pay and allowance with interest at 18% per annum.
2. Grant such other reliefs which this Hon'ble Tribunal may be deem fit and proper in the circumstances of the case.
3. Award costs of and incidental expenses to these applicants.

2. The brief facts of the case are that the applicants are initially appointed as Khalasis under the work charged establishment of Lakshadweep Harbour Works in the pay scale of Rs.196-3-120-EB-3-232. All of them have been promoted to the post of Seacunny in the pay scale of Rs.2610-3540. The next channel of promotion to them is Driver cum Seacunny in the pay scale of Rs.3050-4590 and for that purpose three years experience in the grade of Seacunny with the qualification required for direct recruitment is necessary. The qualification for direct recruitment is second class Engine Driver or Serang Certificate issued by M.M.D with two years experience in operating Motor Launch.

3. Respondents No.2&4, namely, the Administrator, Union Territory of Lakshadweep, Kavarathi and the Deputy Chief Engineer, Lakshadweep Harbour Works, Kavarathi have filed their reply statement. Even though notices were issued to the 1st respondent, namely, Union of India

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represented by the Secretary to Government of India, Ministry of Surface Transport, New Delhi and to the 3rd respondent, namely, Chief Engineer and Administrator, Andaman & Lakshadweep Harbour Works, Port Blair, they have not filed any reply statement in this matter so far. The contentions of the 2nd and 4th respondents are that before the applicants have represented the matter itself, they have noticed the anomaly and the 4th respondent vide Annexure R-2(b) letter dated 18.1.2006 addressed to the 3rd respondent recommended to consider the case of the applicants for second financial upgradation in the lower scale of actual promotion post (Rs.3050-4590) by relaxing the condition of possessing the requisite certificate from the MMD, since there is no scope of possessing such Certificate by them, so that their acute stagnation can be avoided. They have also requested to refer the case, as a special one, to the Surface Transport Ministry, if required, to obtain the requisite sanction.

4. We have heard Shri.M.R.Hariraj for the applicant and Shri.S.Radhakrishnan for respondents No.2-4. It is seen that the respondents themselves are aware of the anomaly in the case of the applicants and they are concerned about it. The 4th respondent has, therefore, already taken up the matter with the 3rd respondent to grant second financial upgradation to the applicants vide Annexure R-2(b) dated 18.1.2006. It appears that the same has not been considered by the 3rd respondent or it has not forwarded the same to the 1st respondent with all recommendations, so far. The problems do not get solved automatically. The concerned authority has to consider the request of the applicants and to take a decision in the matter. In the above circumstances, we direct the 3rd respondent to prepare a consolidated case of the applicants on the



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basis of Annexure R-2(b) letter dated 18.1.2006 and take up the matter with the 1st respondent, if not done so far, so that a decision in the matter may be taken by the competent authority without any further delay. It is also to be noted that the recommendations of the 6th CPC is also available by now and the case of the applicants may be considered in the light of the recommendations, if any. Once the proposal reaches the 1st respondent, namely, Union of India represented by the Secretary to Government of India, Ministry of Surface Transport, New Delhi, he shall personally look into the matter and to take a decision without any further delay and in any case, within a period of four months from the date of receipt of a copy of this order. There shall be no order as to costs.

(Dated this the 3rd day of September 2008)


K.NOORJEHAN
ADMINISTRATIVE MEMBER

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GEORGE PARACKEN
JUDICIAL MEMBER