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**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application Nos.180/001021/2016 and 180/00763/2018

Monday, this the 5th day of November, 2018

CORAM:

HON'BLE Mr.E.K.BHARAT BHUSHAN, ADMINISTRATIVE MEMBER

HON'BLE Mr.ASHISH KALIA, JUDICIAL MEMBER

1. Renjith Stephen,
Aged 24 years,
S/o Stephen Rozario,
House No.131, Pallithura P.O.,
Thiruvananthapuram-696 586.
2. Mrs.Jospin,
Aged 39 years,
W/o Ben Joseph,
Thyvilagam House,
Pallithura P.O.,
Thiruvananthapuram-695 586.
3. Mr.Antony Gilbert,
Aged 34 years,
S/o Gilbert,
Puthuval Purayidam,
Pallithara P.O.,
Thiruvananthapuram-695 586.Applicants in OA No.1021/2016

(By Advocate Ms.Mary Benjamin)

V e r s u s

1. The Vikram Sarabhai Space Centre,
represented by its Director,
Indian Space Research Organisation,
Thiruvananthapuram – 695 022.
2. The Head, Personnel & General Administration,
Vikram Sarabhai Space Centre,
Thiruvananthapuram-695 022.
...Respondents in OA No.1021/2016

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Deepu D.,
Aged 26 years,
S/o Dileep Kumar, Usha Bhavan,
Puthuval Manakkad, Kulathoor,
Thiruvananthapuram -695 583.

....Applicant in OA No.763/2018

(By Advocate Ms.Mary Benjamin)

V e r s u s

1. The Union of India represented by the Secretary,
Department of Space,
Government of India,
New Delhi – 110 001.
2. The Vikram Sarabhai Space Centre,
represented by its Director,
Indian Space Research Organisation,
Thiruvananthapuram – 695 022.
3. The Senior Administrative Officer,
Recruitment and Review Section,
Vikram Sarabhai Space Centre,
Thiruvananthapuram-695 022. ...Respondents OA No.763/2018

(By Sr.PCGC Shri N.Anil Kumar)

This application having been heard on 30th October 2018, the Tribunal
on 5th November, 2018 delivered the following :

ORDER

HON'BLE MR.E.K.BHARAT BHUSHAN, ADMINISTRATIVE MEMBER

The OA No.1021/2016 and OA No.763/2018 are filed by the respective
applicants who are evictees belonging to third generation from among the
families who were displaced while setting up Vikram Sarabhai Space Centre.

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As common questions of fact and law are involved, the two OAs are being disposed of through a common order.

2. The OA No.1021/2016 is filed by Renjith Stephen (Applicant No.1), Smt.Jospin (Applicant No.2) and Antony Gilbert (Applicant No.3), all grandchildren of the evictees during acquisition of land for the establishment of the Vikram Sarabhai Space Centre, Thiruvananthapuram. The applicants are aggrieved for not being appointed under the respondent department, Vikram Sarabhai Space Centre/Indian Space Research Organization, have filed this OA seeking for the following reliefs:

1. To call for the records leading Annexure 11.
2. To quash Annexure 2, Annexure 3 & Annexure 4 and Annexure 9 & Annexue 10.
3. To quash Annexure 11 to the extent the 1st applicant's name is not there.
4. To issue a writ of mandamus or anyother appropriate writ, direction or order commanding the respondents to appointment applicants in terms of option exercised by the applicants as per Annexure 6, Annexure 7 & Annexure 8.
5. To declare that the applicants are entitled to get appointment under the respondents.
6. To grant such other relief as this Honourable Tribunal may deem fit to grant in the circumstances of the case.
7. To award to the applicant cost of this proceedings.

3. As stated, the applicants are grandchildren of the evictees in acquisition of land for the establishment of the Vikram Sarabhai Space Centre, Thiruvananthapuram. A consensus between the representatives of the evictees and Vikram Sarabhai Space Centre (VSCC) had been agreed upon

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to consider for appointment in VSSC upto third generation from evictees family without being sponsored through Employment Exchange.

4. The applicants submitted their applications for appointment on various occasions but they were not considered on the ground of seeking some clarifications. Aggrieved by this the applicants had filed OA No.515/2012 before this Tribunal and the OA was disposed of by order dated 12.06.2013 directing the respondents to consider the applicants for employment. While considering the applicants the respondents raised a new contention that the applicants are overaged and had declined employment. Challenging this decision the applicants again approached this Tribunal in OA No.1002/2013 and the said OA was disposed of by order dated 12.06.2015 directing the respondents to consider the applicants for employment on submission of their option, as if it was filed in January, 2012. When no action was taken to implement the direction of the Tribunal, the applicants filed Contempt Petitions. Subsequent to filing the Contempt Petition the respondents rejected the claim of the applicants giving the reason that they are overaged.

5. A letter dated 26.10.2015 was issued to the first applicant informing that he is eligible to be considered to the post of Fireman A and Catering Attendant-A. Though the first applicant went through the prescribed process of selection, the name of the first applicant was not included in the list of candidates appointed to the said posts. The applicants filed MAs for proper

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implementation of the order dated 12.06.2015 in OA No.1002/2013; however, the MA along with the Contempt Petition was dismissed. Challenging the dismissal order, the applicants approached the Hon'ble High Court in OP (CAT) No.110 of 2016. The Hon'ble High Court disposed of the OP directing the applicants to approach this Tribunal being Court of first instance. Hence the applicants have filed this OA.

6. The respondents in their reply submitted that Indian Space Research Organization (ISRO) initially formulated as an autonomous body, was subsequently converted into a Central Government Organisation under the Department of Space. The exemption allowed by the Organization prior to Governmentalisation is that the evicted person or his dependent family member will be considered for appointment. If nobody is found suitable from the first generation, then only eligible members from second or third generation will be considered. The respondents submit that there was no specific reservation for evicted persons nor any guarantee of employment given by the ISRO. The consensus was reached when VSSC was an autonomous body and which is still being honoured. It is further submitted that the evicted families were given adequate and due compensation for the land/properties acquired from them for the establishment of VSSC and consideration of employment to the evicted family was subject to the availability of posts and suitability of the candidate. Apart from this no separate scheme for providing employment for evicted family is available in

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VSSC nor is any quota fixed for evicted families. Further, the members of the evicted family do not have any vested right for employment without being eligible for the post as per the ISRO Recruitment norms and without undergoing the process of selection. Mere registration with VSSC as evictee by a candidate also does not make him/her entitled for employment.

7. The respondents submitted that the first applicant attended the written test held for the post of Catering Attendant-A. Since he scored lowest marks compared to other evictee candidates, one from among the evictee candidates based on the performance in the interview got selected. In respect of second and third respondents, though they were qualified for consideration to the Group 'D' posts of Catering Attendant-A and Office Attendant-A they were overaged even after giving them due age relaxation of 3 years for being OBC candidates.

8. The respondents further submit that there is a ban on direct recruitment to the posts of Office Attendant-A and Safaiwala-A as per the decision of the Department of Space based on the policy of the Government of India during 1990s. Accordingly filling up of vacancies at all levels was stopped. It is submitted that Government of India vide Department of Personnel & Training OM No.2/8/2001-PIC dated 16.05.2001 had introduced the scheme of Optimization of direct recruitment to civil posts (Annexure R2).

It is also submitted that the ban imposed for direct recruitment is still continuing (Annexure R3). Therefore the respondents submit that the OA is

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devoid of merit and the same is liable to be dismissed.

9. The applicant in OA No.763/2018, aggrieved by not being considered for appointment under the respondent department, Vikram Sarabhai Space Centre/Indian Space Research Organization, has filed this OA seeking for the following reliefs:

1. To issue a writ of mandamus or any other appropriate writ, direction or order commanding the respondents to appoint applicant under them in terms of Annexure I scheme.
2. To declare that the applicants are entitled to get appointment under the respondents.
3. To grant such other relief as this Honourable Tribunal may deem fit to grant in the circumstances of the case.
4. To award to the applicant cost of this proceedings.

10. The facts of the case are that the applicant is the grandson of Shri V.Sadanandan, who is one of the evictees during acquisition of land for the establishment of the Vikram Sarabhai Space Centre at Thiruvananthapuram. Vide Annexure A1, the Chairman, ISRO had undertaken that special consideration will be given in case of evicted persons, including their dependents falling within three generations only, with certain percentage of reservation for job and guarantee of employment to the qualified candidates. It was agreed that a list of evicted personnel duly certified by the Executive Officer of the Panchayat Board would be furnished to ISRO to enable them to given special consideration for such applicants during recruitment.

11. The applicant submits that his mother, Smt.UshaKumari, who is

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daughter of the said Shri Sadanandan had applied for employment several times under the evicted category, but she was not given appointment though she was invited for interview (Annexure A2). Thereafter, the applicant submitted a request for employment (Annexure A3). On receipt of the same, the applicant was asked to submit certain original certificates. The applicant complied with the direction of the respondents by submitting the original eviction certificate (annexure A4). The applicant had sought for certain information under RTI and obtained the same with regard to the non-selection of his mother and that the applicant, being registered in VSSC under evicted category will be considered under the said category subject to fulfillment of certain essential requirement and standards etc. (Annexure A5). It is further submitted by the applicant that he continues to apply for employment under the respondents and that now he is working as a Catering Attendant on contract basis. The contract appointment is through M/s.Abi Enterprises.

12. The applicant refers to the judgment of Hon'ble Supreme Court in the Aquilin Rose's case. The Hon'ble Supreme Court had directed the respondents to give appointment to the applicant therein forthwith as Catering Attendant-A with an observation that the said judgment need not be treated as a precedent.

13. The respondents in their reply submitted that Indian Space Research Organization (ISRO) initially formulated as an autonomous body, was subsequently converted in to a Central Government Organisation under the

Department of Space. The exemption allowed by the Organization prior to Governmentalisation is that the evicted person or his dependant family members will be considered for appointment. If none is found suitable from the first generation, then only the eligible members from second or third generation will be considered. The respondents submit that there was no specific reservation for evicted persons nor any guarantee of employment given by the ISRO. The consensus was reached when VSSC was an autonomous body and this is still being honoured .

14. It is further submitted that the evicted families were given adequate and due compensation for the land/properties acquired from them for the establishment of VSSC and consideration of employment to the evicted family was subject to the availability of posts and suitability of the candidate. Apart from this no separate scheme for providing employment for evicted family is available in VSSC nor is any quota fixed for evicted families. Further, the members of the evicted family do not have any vested right for employment without being eligible for the post as per the ISRO Recruitment norms and without undergoing the process of selection. Mere registration with VSSC as evictee by a candidate also does not make him/her entitled for employment.

15. The respondents submit that the selection panels for the notified posts were being drawn as per the prescribed procedure from among the selected candidates sponsored by the Employment Exchange. As per the consensus

arrived at between the then Chairman, ISRO, Dr.Vikram Sarabhai and the representatives of the evictees, it was agreed that only preferential treatment would be given to the evictees for consideration of employment in VSSC against Group 'C' and Group 'D' posts based on their qualifications, without their names being sponsored by the Employment Exchange and this shall be subject to the fulfillment of all other requirements for the post and the selection will be strictly on the recommendation of the appropriate selection committee.

16. The respondents further submit that the applicant's mother was considered for employment to the post of Attendant-A/Safaiwala , but she was not found eligible by the appropriate selection committee. The applicant being the grandson of the original evictee was also considered for the appointment on multiple occasions for the posts of Catering Attendant-A (twice), Fireman-A and Cook (twice). The applicant passed in the written test but did not qualify for selection in interview for the post of Catering Attendant-A. Again the applicant was not found fit in the medical test for the post of Fireman-A and so far as the post of Cook was concerned he did not respond to the intimation given vide letter dated 31.07.2015 and 28.08.2017.

17. The respondents submit that the applicant is now working on contract basis as Catering Attendant through a service provider and not on direct contract between the applicant and the respondents. They submit that the

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judgment of Hon'ble Supreme Court relied on by the applicant is clearly not to be counted as a precedent. The respondents referred to OA No.589/2002 filed by Smt.Sheela of CAT Ernakulam Bench and the same was dismissed holding that no appointment can be offered dispensing with suitability of the post and persons from the evicted families are not vested with any right of employment in VSSC. The said order was subsequently upheld by the Hon'ble High Court of Kerala.

18. Heard Mrs.Mary Benjamin, learned Counsel for the applicant and Shri N.Anil Kumar, Sr.PCGC, learned Counsel for the respondents.

19. The question here revolves around the alleged right of the applicants to obtain permanent employment under the respondent organization owing to their status as belonging to the third generation of evictee families. ISRO was initially set up as an autonomous institution and was later converted into a Government Department as the Department of Space. As per Annexure A1 of OA No.763/2018 document which is the minutes of a meeting held with representatives of Pallithura-Veli Welfare Association Co-ordination Committee and the representatives of the ISRO on 03.06.1970 under the Chairmanship of Shri Vikram A.Sarabhai, Chairman, ISRO, the following is mentioned relating to employment of evictee personnel.

5. Regarding employment of the evicted personnel, the representatives wanted special consideration to be given not only to the evicted people but all persons in the local area. Chairman ISRO

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clarified that special consideration can be given only in case of evicted persons, including their dependents falling within 3 generation only, and not to others.

20. In 1021/2016 the applicants are pressing their claims for the third time before this Tribunal. In the first instance the applicants obtained an order in OA No.515/2012 directing the respondents to consider their case. Further, on being declined, the applicants approached this Tribunal again by filing OA No.1002/2013 wherein it was ordered that their applications were to be considered as if it was filed in January, 2012. In response, the respondents had considered the first applicant for the post of Fireman-A and Catering Attendant-A. The applicant was not successful therein. During the selection process although the first applicant did not obtain success, another person among evictee candidates was selected. In the case of other two applicants, they were found over aged even after availing the age relaxation on the ground of their being OBC candidates. Although it is mentioned that there is now a ban on the direct recruitment, it is undeniable that the request for appointment of the applicants were duly considered.

21. In the case of the applicant in OA No.763/2018 it is seen that more or less the same procedure had been followed. He calls to his assistance the judgment in the case of **Union of India & Ors. vs. Acquilin Rose M., in Civil Appeal No.1877/2018 [Special Leave Petition (C) No.4893/2018 dated 13.02.2018]**. But it is seen that the Hon'ble Apex Court in the said order

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clearly observed that the said judgment is not to be treated as a precedent.

22. As mentioned, the cardinal question here is whether the members of the evictee families belonging to the third generation have any enforceable right for appointment in VSSC/ISRO. As mentioned the only claim they have is the quoted portion of the minutes of a meeting that took place on 03.06.1970 (Annexure A1 in OA No.763/2018). This does not amount to a binding undertaking. While they stated that 'special consideration' is to be given to the evicted persons up to three generations, such consideration cannot be to the total exclusion of all eligibility norms. In the case of some atleast, the applicants have fallen short while persons from the evictee categories themselves had been successful.

23. After consideration of all factors we conclude that OA No.1021/2016 and OA no.763/2018 have no merit and are liable to be dismissed. Accordingly, we dismiss both the OAs. No costs.

(Dated this the 5th day of November 2018).

(ASHISH KALIA)
JUDICIAL MEMBER

(E.K.BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

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List of Annexures in O.A. No.180/01021/2016

1. **Annexure A1** – True copy of the order dated 12.6.2013 in OA No.1002/2013
2. **Annexure A2** – True copy of the order dated 26.08.2013, issued to the 1st applicant by the respondent.
3. **Annexure A3** – True copy of the order dated 26.08.2013, issued to the 2nd applicant.
4. **Annexure A4** – True copy of the order dated 26.08.2013, issued to the 3rd applicant.
5. **Annexure A5** – True copy of the order dated 12.06.2015 in O.A.No.1002/2013.
6. **Annexure A6** – True copy of the option statement dated 8.7.2015 submitted by the 1st applicant.
7. **Annexure A7** – True copy of the option statement dated 8.7.2015 submitted by the 2nd applicant.
8. **Annexure A8** – True copy of the option statement dated 8.7.2015 submitted by the 3rd applicant.
9. **Annexure A9** – True copy of the proceedings dated 26.10.2015 issued to the 2nd applicant.
10. **Annexure A10** - True copy of the proceedings dated 26.10.2015 issued to the 3rd applicant.
11. **Annexure A11** – List of candidates appointed to the post of Fireman-A and Catering attendant-A.
12. **Annexure A12** – True copy of reply statement filed by respondents in MA No.1197/2015.
13. **Annexure A13** – True copy of reply statement filed by respondents in MA No.61/2016.
14. **Annexure A14**– True copy of the order dated 06.01.2016 of the Tribunal.
15. **Annexure A15** – True copy of the counter affidavit dated 20.05.2016 filed in OP (CAT) No.110 of 2016 before the Hon'ble High Court.

16. Annexure A16 – True copy of the judgment dated 1.11.2016 in OP (CAT) No.110/2016.

17. Annexure R1 – True copy of the letter No.VSSC/RMT/9.0/2015 dated 26.10.15.

18. Annexure R2 – True copy of the OM No.2/8/2001-PIC dated 16.05.2001.

19. Annexure R3 – True copy of ISRO HQ OM No.HQ: ADMN:A.20(2): 2011 dated 08.08.2011.

List of Annexures in O.A. No.180/00763/2018

1. **Annexure A1** – True copy of the consensual reduced to a minute.
2. **Annexure A2** – True copy of the letter No.VSSC/rmt/9.0/35 dated 17.01.1995.
3. **Annexure A3** – True copy of the letter dated 27.12.2010.
4. **Annexure A4** – True copy of the reply of the applicant dated 28.02.2011.
5. **Annexure A5** – True copy of the letter of the respondent dated 29.07.2011.
6. **Annexure A6** – True copy of the certificate issued to Shri V.Sadandan.
7. **Annexure A7** – True copy of the certificate issued by the Tahsildar, Trivandrum.
8. **Annexure A8** – True copy of the application submitted by the applicant in pursuant of the advertisement dated 07.07.2012 along with the advancement.
9. **Annexure A9** – True copy of the certificate issued by M/s.Abhi Enterprises.
10. **Annexure A10** - True copy of the order dated 19.01.2018 of the Hon'ble Supreme Court..
11. **Annexure A11** – True copy of the order dated 29.01.2018 of the Hon'ble Supreme Court.

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12. **Annexure A12** – True copy of the Judgment dated 13.02.2018 of the Hon'ble Supreme Court in Civil Appeal No.1877/18.

13. **Annexure R1** – True copy of the order dated 23.11.2004 by the Hon'ble Central Administrative Tribunal, Ernakulam bench.

14. **Annexure R2** – True copy of the Judgment dated 03.03.2008 of the Hon'ble High Court of Kerala.

15. **Annexure R3** – A copy of the judgment dated 06.11.2017 of the Hon'ble High Court of Kerala.
