

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No.180/00959/2017

Tuesday, this the 22nd day of May, 2018

CORAM:

**HON'BLE Mr.U.SARATHCHANDRAN, JUDICIAL MEMBER
HON'BLE Mr.E.K.BHARAT BHUSHAN, ADMINISTRATIVE MEMBER**

R. Sundara Raman,
S/o. V. Ramachandran, Aged 38 years,
Assistant Professor Mechanical Engineering,
Indian Naval Academy, Ezhimala,
Residing at Quarter No. 741, Officers Residential Area (ORA),
Indian Naval Academy, Ezhimala P.O. - 670 310, Kannur. ..Applicant

(By Advocate Mr.M.R.Hariraj)

V e r s u s

- 1 Union of India,
Represented by the Secretary, Ministry of Defence,
South Block, New Delhi – 110 001.
- 2 The Chief of Naval Staff,
Integrated Head Quarters, Ministry of Defence (NAVY),
Sena Bhavan, New Delhi – 110 011.
- 3 The Principal Director of Civilian Personnel (PDCP),
Directorate of Civilian Personnel, Integrated Headquarters,
Ministry of Defence (Navy), Talkatora Annexe Building,
New Delhi – 110 011.
- 4 The Commandant, Indian Naval Academy,
INS Zamorin, Ezhimala – 670 310.
- 5 The Principal Controller of Defence Accounts (Navy),
Ministry of Defence (Navy), EDP Centre No. 1,
Cooperage Road, Mumbai – 400 001.
- 6 The Deputy Controller of Defence Accounts,
Area Accounts Office (Navy), Perumanoor,
Kochi – 682 015.

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- 7 All India Council for Technical Education (AICTE),
Represented by its Chairman, Nelson Mandela Marg, Vasant Kunj,
New Delhi – 110 067 (*R7 set ex-parte vide order dated 19.01.2018*)
- 8 Jawaharlal Nehru University,
New Delhi 110 067, represented by its Registrar.
- 9 Shri. Gurralla Srinivasa Rao,
Associate Professor, Indian Naval Academy (INA),
Ezhimala P.O.- 670 310, Kannur.
- 10 Dr. C.D. Golghate,
Professor, Indian Naval Academy (INA),
Ezhimala P.O. - 670 310, Kannur.
- 11 Shri. M.H. Quazi,
Associate Professor, Indian Naval Academy (INA),
Ezhimala P.O. - 670 310, Kannur.
- 12 Shri. Pradeep Kumar Singh,
Associate Professor, Indian Naval Academy (INA),
Ezhimala P.O. - 670 310, Kannur.
- 13 Dr. Ashutosh Shukla,
Associate Professor, Indian Naval Academy (INA),
Ezhimala P.O. - 670 310,
Kannur. (*R13 set ex-party vide order dated 16.02.2018*).
- 14 Shri. K. Parthasarathy,
Associate Professor, Indian Naval Academy (INA),
Ezhimala P.O. - 670 310, Kannur. Respondents

(By Advocates **Mr.N.Anilkumar, Sr.PCGC [R] [R1-6] &**
 Mr.T.C.Govindaswamy [R8-12 &14])

This application having been heard on 17th May 2018, the Tribunal on 22nd May 2018 delivered the following :

ORDER

HON'BLE Mr.U.SARATHCHANDRAN, JUDICIAL MEMBER

The applicant is presently working as Assistant Professor, Mechanical Engineering, in the Indian Naval Academy, Ezhimala. He is aggrieved by the order issued by the 3rd respondent redesignating Party Respondents 9 to 14 as

Associate Professors from their date of appointment under Respondent No.4, Indian Naval Academy, Ezhimala which has been done purportedly in accordance with Annexure A-2 All India Council for Technical Educational (AICTE)/Pay Scales, Service Conditions and Qualifications for the Teachers and other Academic Staff in Technical Institutions (Degree) Regulations, 2010 (for short, Regulations). The applicant states that before the introduction of Annexure A-2 the cadre structure of the teaching staff in the Indian Naval Academic was (1) Lecturer, (1)(a) Lecturer (Senior Scale), (1) (b) Lecturer (Selection Scale) (2) Assistant Professor and (3) Professor. He states that there were also channel for promotion for Lecturers in the entry cadre to the higher grades. However, when Annexure A-2 was put in place the cadre structure was redesigned with the following posts (1) Assistant Professor (2) Assistant Professor (Senior Scale) (3) Assistant Professor (Selection Scale) (4) Associate Professor and (5) Professor. The existing Lecturers were redesignated as Assistant Professors with AGP 6000 (in the ordinary scale) and the Lecturers (Senior Scale) would be redesignated as Assistant Professors in AGP 7000/-. Among the existing Lecturers (Selection Scale) and Assistant Professors, those who have completed 3 years of service would be redesignated as Associate Professors and grant AGP of 9000 in Pay Band IV. Those who have not completed 3 years will be granted AGP of 8000 in Pay Band III. Their designation would continue without change till they are redesignated as Associate Professors in terms of the aforesaid regulations. While the Lecturer (Selection Scale) can be redesignated as Associate Professors on completion of three years and Assistant Professors in

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AGP 8000 shall be eligible to move to Pay Band (IV) plus AGP 9000 only subject to the conditions that they could be redesignated as Associate Professor if they possess the qualification of Ph.D or equivalent.

2. The applicant states that he commenced service as Lecturer with effect from 25.3.2009 in the pay scale of Rs.15600-39100 plus AGP 6000 in the Pay Band III with effect from the date of commencement of his service. He had prior service in other Institutions like SCSVMV University, Kanchipuram and Easwari Engineering College, Chennai. He had requested for reckoning the aforesaid services as qualifying for promotion. The applicant further states even without reckoning prior experience and qualifications he is entitled to be placed in AGP 7000 in Pay Band III with effect from 25.3.2014 and he would be placed in AGP 8000 with effect from 25.3.2019 subject to the fulfillment of conditions in Annexure A-2. Thereafter he would be eligible for placement in AGP 9000 in Pay Band IV and designation as Associate Professor on completion of 3 years service in AGP 8000. The applicant is aggrieved by Respondents 9 to 14- who are direct recruits- stealing a march over him to the post of Associate Professors. He apprehends that at the time when he becomes qualified as stated above there will be no place for him to be posted as Associate Professor. Hence he has approached this Tribunal seeking the reliefs as under :

- (i) To call for records leading to Annexure A-1, A-8 & A-23 and quash the same.
- (ii) Declare that the post of Associate Professor and Professor under Respondent No.4 is liable to be filled in accordance with Annexure A-2.

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- (iii) To declare that the Respondent Nos.9, 11, 12 and 14 are not entitled to be designated as Associate Professor or granted any consequential benefits.
- (iv) To direct the Respondent Nos.1 to 4 not to designate the said Respondent Nos.9, 11, 12 and 14 as Associate Professor or grant consequential benefits unless they fully satisfy the requirements under Annexure A-2.
- (v) To declare that Respondent No.10 is eligible to be designated as Associate Professor only with effect from the date on which he acquired PhD qualification and that he will be qualified to be appointed as Professor only on completion of 3 years as Associate Professor.
- (vi) To direct Respondent Nos.5-8 to take necessary action to ensure that Annexure A-2 is strictly implemented in Indian Naval Academy, Ezhimala.
- (vii) To declare that the Respondent No.13 would be eligible for appointment as Associate Professor only from the date he attains the qualifications for such appointment as per Annexure A-2.
- (viii) To direct the Respondent Nos.1 to 4 to grant such benefits to Respondent Nos.10 & 13 only in accordance with Annexure A-2.
- (ix) Grant such other reliefs as may be prayed for and the Court may deem fit to grant and
- (x) To grant the costs of this Original Application.

3. Shri.T.C.Govindaswamy appearing for Respondent Nos.8 to 12 and 14 raised a preliminary objection regarding maintainability of this O.A. He submitted that the grievance of the applicant as postulated in this O.A is not a 'service matter' envisaged under Section 14 of the Administrative Tribunals Act, 1985 (for short, the 1985 Act). He submitted that the applicant who has not even qualified for being posted as Associate Professor is telescoping his grievances to a future date in such a manner as if direct recruits like the Party Respondents in this case are appointed, there will be no vacancies available when he himself gets qualified and becomes entitled to a placement in the post of Associate Professor.

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4. Shri.M.R.Hariraj, learned counsel for the applicant submitted that the applicant is challenging the ineligibility of the Party Respondents to be appointed as Associate Professor.

5. The jurisdiction and the type of disputes that can be dealt by the Administrative Tribunals set up under the 1985 Act have been analysed by a 3 Judges Bench of the Apex Court in *Dr.Duryodhanan & Ors. v. Jitendra Sahu* (1998) 7 SCC 273. The Apex Court held :

“The constitution of Administrative Tribunal was necessitated because of the large pendency of cases relating to service matters in various courts in the country. It was expected that the setting up of Administrative Tribunals to deal exclusively in service matters would go a long way in not only reducing the burden of the Courts but also provide to the persons covered by the Tribunals speedy relief in respect of their grievances. The basic idea as evident from the various provisions of the Act is that the Tribunal should quickly redress the grievances in relation to service matters. The definition of 'service matters' found in [Section 3](#) (q) shows that in relation to a person, the expression means all service matters relating to the conditions of his service. The significance of the word 'his' cannot be ignored. [Section 3](#) (b) defines the word 'application' as an application made under [Section 19](#). The latter Section refers to 'person aggrieved'. In order to bring a matter before the Tribunal, an application has to be made and the same can be made only by a person aggrieved by any order pertaining to any matter within the jurisdiction of the Tribunal. The word 'order' has been defined in the explanation to sub-section (1) of [Section 19](#) so that all matters referred to in [Section 3](#) (q) as service matters could be brought before the Tribunal. If in that context [Sections 14](#) and [15](#) are read, there is no doubt that a private citizen or a stranger having no existing right to any post and not intrinsically concerned with any service matter is not entitled to approach the Tribunal.....”

6. The different provisions of the 1985 Act and the definition of the various terms used therein have been sufficiently analysed by the Apex Court in the aforequoted portion of the judgment in *Dr.Duryodhanan's* case. Going by the scope and ambit of the matters to be dealt with by Administrative Tribunals as analysed by the apex court in the above case, we have no hesitation to hold that the applicant cannot be said to be a 'person aggrieved' as referred to in [Section 19](#) of the 1985 Act. No order has been passed by the

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official respondent pertaining to the 'service matter' within the meaning given in Section 3(q) of the 1985 Act. On the other hand, the applicant seems to be concerned about the alleged disqualifications of the Party Respondents for holding the post of Associate Professors. It is worth mentioning that the applicant has not so far acquired the qualifications required for the post of Associate Professor.

7. In *Harish Bhans Lal v. Souhdra Prasad Mohanto* AIR 2010 SC 3515 the Apex Court held that suitability and otherwise of a candidate for appointment to a post in Government service is a function of the appointing authority and not of the Court unless it is contrary to the statutory provisions/rules. In that case the Apex Court has referred to *State of Mysore & Anr. v. Sayed Mahamood & Ors.* AIR (1968) SC 1113 also. For the enforcement of any of the rights conferred by Part III of the Constitution and also for other purposes the Supreme Court and High Courts have been conferred with the power of issuing the writ of *quo warranto*. A person can file a Writ Petition for a writ of *quo warranto* in service matters when the appointment is contrary to a statutory provision. However when “a person aggrieved” files a Original Application before the Administrative Tribunal for redressal of **his** grievances in service matters, it should be filed within the scope of Section 14 and 15 read with definition of the term 'service matters' as defined in the 1985 Act.

8. Obviously, the applicant has not filed the present O.A as a Writ Petition

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for a writ of *quo warranto* which can be filed only in the Supreme Court or High Court. He is not entitled to file an O.A before this Tribunal challenging the eligibility of the Party Respondents and for redressing his grievance that no vacancies will be available for the post of Associate Professor in future if the Party Respondents are appointed.

9. In the light of the legal position emerging from the above discussion we hold that this O.A as framed is not maintainable under the 1985 Act. We therefore dismiss the same at the admission stage itself. No order as to costs.

(Dated this the 22nd day of May 2018)

(E.K.BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

(U.SARATHCHANDRAN)
JUDICIAL MEMBER

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List of Annexures in O.A.No.180/00959/2017

- Annexure A-1-** True copy of the letter No CP(G)/1774/PC dated 31.03.2015.
- Annexure A-2-** True copy of the All India Council for Technical Education (AICTE)/ Pay Scales, Service Conditions and Qualifications for the Teachers and other Academic Staff in Technical Institutions (Degree) Regulations, 2010.
- Annexure A-3-** True copy of the notification number 16/2009 dated 10.09.2009 issued by UPSC.
- Annexure A-4-** True copy of the advertisement No. 2/2010 dated 11.02.2010.
- Annexure A-5-** A true copy of the advertisement No. 18/2010 dated 14.10.2010.
- Annexure A-6-** A true copy of the advertisement No. 1/12 dated 02.02.2012.
- Annexure A-7-** The true copy of Ministry of Defence (Navy) (Group A Posts, Professional Cadre) Recruitment Rules, 2007.
- Annexure A-8-** The true copy of the order No. CP (G)/1774/CAS/CDG dated 27.09.2016.
- Annexure A-9-** True copy of the OM No. 3/3/2009/D(Civ-II) dated 10.11.2010.
- Annexure A-10-** True copy of letter No. Pay Tech/Corr/Vol. VI dated 22.04.2013.
- Annexure A-11-** True copy of the letter No. PAY/TECH/CORR/PF dated 09.02.2012.
- Annexure A-12-** True copy of the Letter No. Pay/Tech/Corr/PF dated 02.02.2012.
- Annexure A-13-** True copy of the application for information dated 17.08.2016.
- Annexure A-14-** True copy of the letter No. DL/0812/4503 dated 17.03.2017.
- Annexure A-15-** True copy of the notification of AICTE dated 04.01.2016.

- Annexure A-16-** A true copy of the letter of approval dated 13.08.2009 of respondent No. 7.
- Annexure A-17-** True copy of ordinance relating to defence (Military) Engineering Institutions (1984).
- Annexure A-18-** True copy of the representation dated 16.03.2017.
- Annexure A-19-** True copy of the representation dated 17.05.2017.
- Annexure A-20-** True copy of the representations dated 17.05.2017.
- Annexure A-21-** True copy of the representations dated 17.05.2017.
- Annexure A-22-** True copy of the representations dated 17.05.2017.
- Annexure A-23-** The true copy of the order No. CP(G) 1774/CAS/PC dated 31.10.2017.

List of Annexures of the Respondent Nos. 1 to 6

- Annexure R-1-** True copy of interview card issued by UPSC in favour of the applicant dated 20.01.2010.
- Annexure R-2-** True copy of IHQ MoD letter No. CP (G)/1774/MS dated 29.11.2010.
- Annexure R-3-** True copy of IHQ MoD letter No. CP (G)/1774/PC dated 24.12.2012.
- Annexure R-4-** True copy of MoD letter No. CP (G)/1774/KPS/247/13/D (Appts) dated 25.03.2013.
- Annexure R-5-** True copy of letter No. CP (G)/1774/PC dated 17.06.2013.
- Annexure R-6-** True copy of letter No. CP (G)/1774/PC dated 15.05.2015.
- Annexure R-7-** True copy of representation dated 28.03.2012 submitted before the Principal, Indian Naval Academy Ezhimala.
- Annexure R-8-** True copy of letter dated 01.05.2012 of the Indian Naval Academy, Ezhimala addressed to the Flat Officer, Commanding-in-Chief, Southern Naval Command, Kochi.
- Annexure R-9-** True copy of letter No. CS2759/4 dated 17.06.2013.

- Annexure R-10-** True copy of MoD letter No. CP (G)/1774/CON/315/15/D (Apptts) dated 20.10.2015.
- Annexure R-11-** True copy of Gazette publication as per SRO 92 MoD Indian Naval Academy (Professor, Associate Professor and Assistant Professor) Recruitment Rule 2017.
- Annexure R-12-** True copy of DOP&T letter No. AB.14017/13/2013-Esst(RR) dated nil.
- Annexure R-13-** True copy of MHRD letter No. 1-32/2006-U II/U.I(I) dated 31.12.2008.
- Annexure R-14-** True copy of MHRD letter F No. 23-1/2008/TS.II dated 18.08.2009.
- Annexure R-15-** True copy of GoI MoF letter No. 7/23/2008-E-III (A) dated 30.09.2008.
- Annexure R-16-** True copy of judgment of the Hon'ble High Court of Kerala W.P.(C) No. 16471 of 2012.
- Annexure R-17-** True copy of judgment of the Hon'ble High Court of Patna in W.P.(C) No. 12014 of 2014.
