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**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No.180/01045/2017

Friday, this the 29th day of March, 2019

C O R A M :

**HON'BLE Mr.E.K.BHARAT BHUSHAN, ADMINISTRATIVE MEMBER
HON'BLE Mr.ASHISH KALIA, JUDICIAL MEMBER**

A.Nazeer,
S/o.Abdul Khader Kunju,
Working as Leading Fireman,
INS Venduruthy, Southern Naval Command,
Naval Base, Kochi – 682 004.
Residing at Shifa Manzil, Chalikkavattom,
Vennala, Cochin – 682 028.

...Applicant

(By Advocate Ms.Leela.R)

v e r s u s

1. Union of India
represented by Secretary to the Government of India,
Ministry of Defence, New Delhi – 110 002.
2. The Chief of Naval Staff,
Naval Headquarters, New Delhi – 110 002.
3. The Flag Officer Commanding in Chief,
(for CCPO), Headquarters, Southern Naval Command,
Naval Base, Kochi – 682 004.
4. K.J.Denny, S/o.late K.L.Joseph,
Residing at Kanhirathingal House,
Kanjoor P.O. - 683 575, (Via) Aluva.
Now working as Fire Engine Driver,
Fire Station, NAD, Aluva. ...Respondents

**(By Advocates Mr.K.C.Muraleedharan, ACGSC [R1-3]
& Ms.N.Shobha [R4])**

This application having been heard on 27th March 2019, the Tribunal on 29th March 2019 delivered the following :

.2.

ORDER

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

The controversy in the O.A relates to the question as to which of the categories, Leading Fireman (LFM) or Fire Engine Driver (FED) shall be 'Shift incharge' when the Station Officer is not present. The applicant in the O.A is one Shri.A.Nazeer, who is a LFM working at INS Venduruthy, Southern Naval Command. He details how his category, ie., LFM, is more eligible and qualified to be Shift incharge as compared to FED. He argues that a Fireman when he passes the departmental test is proficient in all matters relating to the functions and management of a Fire Station. Besides, he has spent several years tending to all aspects of fire fighting. The applicant cites himself as an example. He had joined service in the year 1985. After a lengthy service of 31 years, he was promoted to the post of LFM only on 1.4.2016. In comparison, FED for the sole reason that they hold an equivalent post as the LFM, are claiming the post of Shift incharge. Although both these categories comprise the feeder category for the higher post of Station Officer, the level of expertise and knowledge is weighed heavily in favour of LFM, the applicant claims.

2. He cites the relevant portion of Duties and Responsibilities of Group B and Group C posts (Annexure A-1) as well as the relevant pages of Fire Orders of INS Venduruthy (Annexure A-2) to reinforce his argument. Besides, the 3rd respondent after considering the repeated representations of FED had issued a letter on 3.10.2017 (Annexure A-3) stating that Fire

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Stations are working as per Fire Orders promulgated by units concerned and any change in the policy would not be appropriate. The relevant pages of the General Course in Fire Fighting brought out at Annexure A-5 also supports the argument of the applicant.

3. In contrast, it is maintained that the duties and responsibilities of the FED are significantly different. While the applicant has spent several years in service before becoming a LFM, an FED who had joined as late as in 2012 merely because they hold the equivalent post of LFM claimed seniority so that he is given charge of Shift in charge. It is affirmed that in case of emergency the LFM is far more competent than the FED to handle the situation and it is only the LFM who can appropriately guide the team involved in controlling incidents of fire.

4. The FEDs have been repeatedly making their case to be posted as Shift in charge and despite the rebuff contained in Annexure A-3 communication are seeking a change in policy on the ground that some of them are seniors in the feeder category for Station Officers. Part of the letter at Annexure A-3 has also contributed to the confusion as the FEDs are taking advantage of a rider in the letter which states that “seniority aspect of LFM and FED is to be considered and necessary steps taken to avoid disputes in this regard.” The applicant seeks the following relief through the O.A :

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1. To declare that the Leading Hand Fire alone is the person who can hold the post of Shift in charge/Watch in charge in the stations where there are no Station Officers.
2. To direct the respondents to duly comply with the Annexure A-1, A-2 & A-4 fire orders and not to cause any change in the policy pending the final disposal of this O.A.
3. Direct the respondent to consider the Annexure A-6 representation of the applicant in the light of Annexure A-1, A-2 & A-4 fire orders as well as A-5 training Manual of CEFES and dispose the same within a month in the interest of justice.
4. Issue any order or direction, as this court may deem fit and proper for this applicant to attain the ends of justice.

5. A reply statement has been filed on behalf of the Official Respondent Nos.1-3. It is maintained that as per existing Recruitment Rules for promotion to the post of Station Officer, 50% of the vacancies are to be filled up by promoting eligible LFM and 50% are to be filled up by promoting eligible FED. If a vacancy of Station Officer (SO) was filled up by the senior most individual from LFM stream, the next vacancy would go to FED stream. Apparently as both constitute feeder category for the post of SO, both LFM and FED are given equal importance. It is averred that the Shift incharge is not strictly involved in the scene of fire and is responsible for the conduct and maintenance of the Fire Station. Thus it is appropriate that the senior most person in the Station is Shift incharge in the absence of SO. The Fire Orders of INA Ezhimala and NAD Alwaye are produced and marked as Annexure R-2 and Annexure R-3. Thus the contention of the applicant that FED cannot be permitted to take the position of Shift incharge in the absence of SO, regardless of their seniority is to be dismissed as unsustainable.

.5.

6. Both LFM and FED are promoted from eligible candidates who possess three years service in the respective grade and pass in the relevant departmental examination so it would not be fair to say that under one category personnel are required to spend more time before promotion. As both these categories form the feeder category for promotion to SO, it is not feasible to exclude FED stream from assuming the duties associated with the Shift incharge to the extent that they are confined to an administrative domain.

7. The 4th respondent, Shri.K.J.Denny, FED was impleaded and has filed written statement wherein views contrary to the arguments made in the O.A have been put forward. He states that his category of FEDs are also well versed in fire fighting and have passed the General Course and Senior Supervisory Course. Annexure A-1 is only a proposal regarding the duties and responsibilities of Group B and Group C posts and not an order or rule and as per Annexure A-2 para 308 relating to Shift incharge it is stated that the senior most person present on duty at the Fire Station shall take charge of the Shift. Thus the emphasis is on who is more senior and not on whether he belongs to one stream or other.

8. Heard Ms.Leela.R, learned counsel for the applicant, Shri.Sinu.G.Nath on behalf of Shri.K.C.Muraleedharan, learned ACGSC for the Official Respondent Nos.1-3 and Ms.N.Shobha, learned counsel for the Respondent No.4.

.6.

9. The dispute is with regard to two categories who are integral parts of the fire fighting machinery under the respondents. As both constitute the feeder category for the higher post of SO, we do not see any impropriety in a direction that senior most person at the station shall assume the charge of Shift when no SO is present. It is maintained on behalf of the applicant that according to the system in existence only LFM are invariably incharge of the Shift. This is a position which is disputed by the 4th respondent who represents the category of FEDs. Being a crucial segment in an Armed Force Wing, fire fighting is a critical function and we do not propose to interfere and give a direction one way or the other as the process of fire fighting itself is a dynamic exercise where techniques and methods are fast changing. However, in view of the persistence of the two sides, it would be necessary to bring the dispute to an amicable solution and from this aspect, we feel that the third relief sought could be considered.

10. Accordingly, we direct the respondents to consider Annexure A-6 representation filed by the applicant in the light of the various existing orders on the subject and take a consolidated view within a period of three months from the date of receipt of a copy of this order. This should be done with intent to avoid any misunderstanding and consequent erosion in team work which could lead to an explosive situation.

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11. The O.A is disposed of to this limited extent. There shall be no order as to costs.

(Dated this the 29th day of March 2019)

ASHISH KALIA
JUDICIAL MEMBER

E.K.BHARAT BHUSHAN
ADMINISTRATIVE MEMBER

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List of Annexures in O.A.No.180/01045/2017

1. **Annexure A-1** – Copy of the relevant pages of the Duties and Responsibilities of Group B & C posts proposed in restructuring of the Survey of India Department.
2. **Annexure A-2** – Copy of the relevant pages of the fire orders of INS Venduruthy where the duties and organization of fire staff are mentioned.
3. **Annexure A-3** – Copy of the letter dated 3.10.2017 issued by the 3rd respondent.
4. **Annexure A-4** – A copy of the relevant pages of the fire orders of INS Agrani.
5. **Annexure A-5** – A copy of the relevant pages of the General Course in Fire Fighting of the CEFES.
6. **Annexure A-6** – A copy of the representation submitted by the applicant dated 27.10.2017.
7. **Annexure R-1** – A copy of the IHQ of MoD letter CP (NG)/2805/Corr dated 17.6.2008.
8. **Annexure R-2** – A copy of the Fire Order of INA Ezhimala.
9. **Annexure R-3** – A copy of the Fire Order of Naval Armament Depot, Alwaye.
