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**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No.181/00027/2019

Friday, this the 7th day of June, 2019

Hon'ble Mr.E.K.Bharat Bhushan, Administrative Member
Hon'ble Mr.Ashish Kalia, Judicial Member

Cheriyakoya Poovakechetta
S/o.Attakoya, Aged 30
Poovakechetta House
Amini Island, Union Territory of Lakshdweep **Applicant**

(By Advocate Mr.Ziyad Rahman)

V e r s u s

1. Union Territory of Lakshadweep
Represented by its Administrator
Administration of Union Territory of Lakshadweep
Secretariat, Kavarathi – 682 555
2. The Senior Superintendent of Police Cum Chief Fire Officer
Union Territory of Lakshadweep
Kavarathi – 682 555
3. The Sub Inspector of Police
Amini Police Station
Amini Island
Union Territory of Lakshadweep
Pin – 682 557 **Respondents**

(By Advocate – Mr.S.Manu)

This Original Application having been heard on 4.6.2019, the Tribunal on 7.6.2019 delivered the following:

ORDER

Per: Mr.E.K.Bharat Bhushan, Administrative Member

Original Application No.181/00027/2019 is filed by Mr.Cheriyakoya Poovakechetta, Poovakechetta House, Amini Island, Union Territory of Lakshadweep against the denial of appointment to the post of Fireman/Driver Operator, Department of Fire Protection & Control, Lakshadweep, despite the fact that he was selected and included in the final list of selected candidates.

2. The second respondent had published an Employment Notice dated 1.1.2013 inviting applications to the post of Fireman/Driver. The applicant applied for the same but failed to note in the application form the details of criminal cases that he had been charged with. He was denied appointment for this reason although he was included in the select list. He approached this Tribunal by filing Original Application No.181/78/2015, but was unsuccessful in getting a favorable order. From a perusal of the judgment of this Tribunal, a copy of which is available at Annexure A-1, it is seen that dismissal of the said Original Application was mainly on the ground that the applicant had failed to furnish the details of pending criminal cases. This amounted to suppression of material facts, according to the Tribunal.

3. When the second respondent published another Employment Notice on 16.3.2017 inviting application for filling up 18 posts of Fireman/Driver Operator, the applicant again submitted an application. He mentioned the

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details of criminal cases against him. He was selected as serial no.8 in the select list. However, he again failed to get an appointment order. On enquiry, he was made to understand that this was on account of the fact that certain criminal cases were still pending trial.

4. Applicant submits that he had been implicated as accused in five cases and all of them are politically motivated cases wherein a large number of accused persons were involved. He states that two of the cases wherein the applicant was arrayed as accused were quashed by the Hon'ble High Court vide Annexures A-5 and A-6, while one case resulted in an acquittal. In another case, the trial was completed and in the remaining one, there is a direction from the Hon'ble High Court to complete the trial within five months. He submits that he has not been convicted in any of these cases and it is established by law that no one is guilty until he has been proven so by a competent Court of Law. He states that being denied employment for the sole reason that he was accused in some criminal cases amounts to violation of his fundamental right to employment.

5. The respondents have filed a reply statement wherein the facts of the case as represented by the applicant have been admitted. It is also stated that the declaration given by the applicant in his application form contains details of pending criminal cases alone and the other cases which have been settled are not mentioned. However, it is further stated that “ the Department has decided to constitute a committee to analyse the suitability of the applicant and a final decision will be taken in the matter after obtaining the

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report of the committee. ”

6. When the matter was heard finally on 4.6.2019, learned counsel for the applicant submitted that the applicant is willing to wait for the decision of the designated committee. Under the circumstances, we dispose of the Original Application by directing respondent nos.1 and 2 to consider and dispose of the claim of the applicant in line with the recommendations of the committee constituted for the purpose. The Original Application is disposed of as above. No costs.

(ASHISH KALIA)
JUDICIAL MEMBER

(E.K BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

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List of Annexures

Annexure A1 - True copy of order dated 6.3.2017 in CrI MC No.2373/2014 and CrI Mc 2374/2014

Annexure A2 - True copy of the Employment Notice bearing F.No.10/28/2015-AC(F) dated 16.3.2017

Annexure A3 - True copy of the notice bearing F.No.10/28/2015-AC(F) dated 26.9.2018 by which the final select list was published

Annexure A4 - True copy of the judgment dated 31.8.2018 in OP(CrI) 429/2018 passed by the Honourable High Court.

Annexure A5 - True copy of the judgment dated 30.7.2015 in CrI M.C No.2373/2015

Annexure A6 - True copy of the judgment dated 30.7.2015 in CrI M.C No.2374/2015

Annexure A7 - True copy of the appointment order bearing No.F.No.1/13/88-Estt(pol)/3 dated 4.01.1989

Annexure A8 - True copy of the order bearing F.No.1/9/2001-Estt(pol) dated 25.3.2006

Annexure A9 - True copy of the judgment dated 11.4.2014 rendered by this Honourable Tribunal in O.A No.181/00023/14.

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