

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Applicaton No.180/00654/2017

Tuesday this the 20th day of August 2019

C O R A M :

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

V.P.George,
Aged 40 years,
S/o.V.G.Paul,
Field Worker, Port Health Organization, Kochi.
Residing at Vakappadath House, Kallenchery,
Kumbalangi P.O., Kochi – 682 007.

...Applicant

(By Advocate Mr.Anoop.V.Nair)

v e r s u s

1. Union of India
represented by the Secretary to Government,
Ministry of Health & Family Welfare,
New Delhi – 110 011.
2. The Director General of Health Services,
PH(IH) Section, Nirman Bhavan,
New Delhi – 110 011.
3. Port Health Officer,
Government of India,
Port Health Organization,
Kochi – 682 009.

...Respondents

(By Advocate Mr.Thomas Mathew Nellimoottil, Sr.PCGC)

This application having been heard on 16th August 2019, this Tribunal on 20th August 2019 delivered the following :

ORDER

This is second occasion the applicant is approaching this Tribunal seeking a direction to the Respondent Nos.1-3 to continue with his services

in the post of Field Worker. Earlier O.A.No.234/2013 had been disposed of by this Tribunal as per order dated 10.4.2015 (Annexure A-7) directing the respondents as below :

"12. However, this Tribunal is not impressed by that argument because firstly, there is no vacant and regular post of Driver in the office of Respondent No.3. Secondly, applicant was not working as a Driver continuously for more than 10 years in a regular vacancy. Therefore, the reliance on M.L.Kesari's case will not come to the assistance of the applicant. It is not clear whether the applicant has applied for the post of Field Worker in response to Annexure A-6 public advertisement. It is also not clear whether the two posts of Field Workers as notified in Annexure A-6 were filled up or not. It appears from Annexure A-6 that the age prescribed ie., 18-25 years is relaxable as per rules. In the event the applicant had applied for the post of Field Worker post, this Tribunal hopes that necessary relaxation permissible as per rules could be granted to the applicant if the Respondent Nos.1-3 consider the same in order.

13. Respondents are directed to consider increasing the wages of the applicant as per the extant government orders and administrative instructions."

2. The applicant had filed an OP (CAT) No.98/2015 against the order of this Tribunal which had been dismissed by the Hon'ble High Court of Kerala as per judgment dated 23.3.2017 (Annexure A-9).

3. Ms.Nikhita representing Shri.Anoop.V.Nair appeared on behalf of the applicant and Shri.Thomas Mathew Nellimoottil, Sr.PCGC appeared on behalf of the respondents. All pleadings were examined. The issue relating to the service of the applicant had been examined in detail by this Tribunal while issuing the order in O.A.No.234/2013. On the ground that it was unclear whether the post as notified had been filled up or not, a direction was issued to the Respondent No.3 to consider the applicant against an available post of Field Worker, according him necessary relaxation

permissible as per rules he, being an OBC candidate. Learned counsel for the applicant submits that after the issuance of the order the applicant had filed a formal application for the post of Field Worker. According to the Recruitment Rules the post of Farm Worker is available only to a candidate between 18 and 25 years of age and even granting three years benefit to the applicant, being a OBC candidate, he is still above the permissible age and thus is not eligible for regular posting as Field Worker.

4. We see no impropriety in the steps taken by the respondents. In so far as the applicant being re-employed as a Farm Worker is concerned, the respondents are free to engage his services as and when they required. However, on account of the age factor, his regularization is not permissible under the extant Recruitment Rules. The O.A is dismissed. No costs.

(Dated this the 20th day of August 2019)

E.K.BHARAT BHUSHAN
ADMINISTRATIVE MEMBER

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List of Annexures in O.A.No.180/00654/2017

- 1. Annexure A-1** – A copy of the order No.QC-14/1/91/974 dated 2.9.1996 issued by the 3rd respondent appointing the petitioner as a Driver (skilled labour)
- 2. Annexure A-2** – A copy of the order No.QC-14/1/91/2873 dated 1.12.1999 issued by the 3rd respondent.
- 3. Annexure A-3** – A copy of the ID card issued in the name of the applicant which shows that the applicant is working as Field Worker for the last many years under the 3rd respondent.
- 4. Annexure A-4** – A copy of the relevant pages of audit report, Para No.13 recommended by the Accounts Officer.
- 5. Annexure A-5** – A copy of the order No.QC-14/1/91/1800 dated 20.8.2014 issued by the 3rd respondent.
- 6. Annexure A-6** – A copy of the letter No.QC-15/1/10/1095 dated 8.6.2011 issued by the 3rd respondent.
- 7. Annexure A-7** – A copy of the order in O.A.No.234/2013 passed by this Hon'ble Tribunal dated 10.4.2015.
- 8. Annexure A-8** – A copy of the application submitted by the applicant before the 3rd respondent dated 24.7.2015.
- 9. Annexure A-9** – A copy of the judgment in O.P.(CAT) 98/2015 of the Hon'ble High Court of Kerala dated 23.3.2017.
- 10. Annexure A-10** – A copy of the interim order in M.A.No.661/2014 in O.A.No.234/2013.
- 11. Annexure A-11** – A copy of the letter from Health Officer Cochin dated 5.3.2014 allocating duty to the applicant.
- 12. Annexure A-12** – A copy of the Office Order dated 23.2.2016 issued by health official allocating duty to the applicant as field worker.
- 13. Annexure A-13** – A copy of the Office Order dated 1.3.2016 issued by health official allocating duty to the applicant as field worker.
- 14. Annexure A-14** – A copy of the Letter dated 7.10.2014 from Health Officer Kochi allocating duty to the applicant as field worker.

- 15. Annexure R-1** – A copy of the work order dated 20.3.2017 for printing of ID card for V.P.George and screen shot of ID for permission to print.
 - 16. Annexure R-2** – A copy of the notification published in the newspaper "The Hindu" dated 25.5.2014.
 - 17. Annexure R-3** – A copy of the Office Memorandum bearing F.No.Z.17015/02/2010 O & M dated 7.5.2010.
 - 18. Annexure R-4** – A copy of the email letter dated 25.7.2017 issued by the 2nd respondent.
 - 19. Annexure R-5** – A copy of the attendance register for the month of July, 2017 evidencing the absence of the applicant on 31.7.2017.
 - 20. Annexure R-6** – A copy of the envelope with consignment No.EL 317029681 IN returned with postal endorsements.
 - 21. Annexure R-7** – A copy of the appointment order with respect to the applicant.
 - 22. Annexure R-8** – A copy of the letter No.QC-QC-14/1/1991/2097 dated 31.12.1999 is produced herewith.
 - 23. Annexure R-9** – A copy of the Log Book of the official vehicle KEF-4198 is produced herewith.
 - 24. Annexure R-10** – A copy of the letter No.QC-Appointment/2017/507 dated 4.8.2017 is produced herewith.
 - 25. Annexure R-11** – A copy of the letter dated 24.7.2015 submitted by the applicant is produced herewith.
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