

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION No.210/000327/2019

Date of Decision: 25th June, 2019

CORAM: R.VIJAYKUMAR, MEMBER (A)
R.N. SINGH, MEMBER (J)

Capt. Rakesh Johri
Residing at 5/115, Dr. Shroff Bldg.,
Mhatar Pakhadi Road,
Mazagaon, Mumbai 400 010.
(By Advocate Shri S.Xavier Fernando)

Applicant

VERSUS

1. Union of India,
Through Secretary,
Ministry of Shipping,
Road Transport and Highways,
Department of Shipping, New Delhi 110 001.
2. Director General of Shipping,
9th Floor, Beta Building, I-Think,
Techno Complex Kanjur Marg,
Mumbai 400 042.
3. The Secretary,
Union Public Service Commission,
Shahjahan Road, Dholpur House,
New Delhi 110 069.
4. Mr. Ravindra Sagar,
C/o Director General of Shipping,
9th Floor, Beta Building,
I-Think Techno Complex,
Kanjur Marg, Mumbai 400 042.
5. Mr. Abdulkalamazad Ismathbatcha Sellakkannu,
C/o Director General of Shipping,
9th Floor, Beta Building,
I-Think Techno Complex, Kanjur Marg,
Mumbai 400 042.
6. Mr. Santoshkumar Sahebrao Darokar,
C/o Director General of Shipping,
9th Floor, Beta Building,
I-Think Techno Complex,
Kanjur Marg, Mumbai 400 042.

7. Mr. Kadakam Ramaswamy Sundaram
C/o Director General of Shipping,
9th Floor, Beta Building,
I-Think Techno Complex,
Kanjur Marg, Mumbai 400 042.

... Respondents

ORDER (Oral)

Per : R.N.Singh Member (Judicial)

Shri S.Xavier Fernando, learned
counsel for the applicant.

2. Heard the learned counsel for the
applicant.

3. This application has been filed on
23.06.2019 under Section 19 of the
Administrative Tribunals Act, 1985 seeking
the following reliefs :

*"8.A) That, the Recruitment result dated
17.11.2009 published pursuant to the recruitment
with reference to Notification Ref.
No.O.F.1/244/2008-R-II, item No.6, of UPSC Ad.
No.02, be quashed, and set aside being illegal,
improper, unjustified, and invalid being in violation
of Recruitment Rules, 2003.*

*8.B) That, Nautical Surveyor's appointed pursuant to
the recruitment process with reference to Notification
Ref. No.F.1/244/2008-R-II, item No.6, of UPSC Ad.
No.02 be quashed, and set aside, being erroneous,
and violations of the Recruitment Rules, by counting
the service as Deck Cadets as service of Deck Officer
which resulted in selecting ineligible candidates.*

*8.C) That Nautical Surveyor's appointed pursuant to
the recruitment process with reference to Notification
Ref. No.F.1/244/2008-R-II, item No.6, of UPSC Ad.
No.02 be quashed, and set aside, being in violation of
constitutional provisions for the Recruitment of
Scheduled Caste and Scheduled Tribe Candidates*

article-16.

8.D) That appointment of Mr. Kadakam Ramaswamy Sundaram whose name did not appear in the list of selected candidate dated 17.11.2009 be quashed, and set aside, being illegal and improper and also in violation of Recruitment Rules.

8.E) That appointment of Mr. Kadamkam Ramaswamy Sundaram be quashed, and set aside for being ineligible for appointment to the post of Nauticle Surveyor on grounds that he was not meeting the minimum essential experience 8 years as Deck Officer, out of which one year must be in a foreign going ship.

8.F) That Compensation and damages, be ordered to be paid by Respondent No.2 & 3 for illegally and improperly depriving the Applicant from participating in the recruitment process with reference to Notification Ref. No.F.1/244/2008-R-II, item No.6 of UPSC Ad. No.02.

8.G) Such other order as the Hon'ble tribunal deems fit and proper;

4. The applicant had earlier filed OA No.492/2018 which was dismissed as withdrawn vide order dated 20.06.2018 and in such order the applicant was permitted to file a better application. The applicant has now challenged an Advertisement No.02/2009 issued on 24.01.2009 for an interview based selection by the respondent No.3 on behalf of the respondents for the post of Nautical Surveyor. The applicant applied in response to such advertisement and has

stated that his application was rejected as incomplete since the Caste Certificate furnished by him was not in the format prescribed by the Government of India. The respondents had then selected five candidates. He further submits that he had made an oral application to the respondents requesting him to be called for interview as a General candidate but that was also not accepted but he has no record to show in support of this claim. The learned counsel for the applicant now contends that his application was improperly rejected and the remaining candidates who had been selected were not qualified for the post in terms of the experience requirement and that a person who was not in the list of recommended candidates was also appointed to the selected post. He has now impleaded four of the said selected persons in this OA.

5. The applicant has filed MA No.371/2019 for condonation of delay in which he claims no delay by adopting a later date relating to an RTI reply that he received in the year 2018 although he concedes that the interview

and selection were long past completed in 2009.

6. The applicant has filed a copy of the orders of this Tribunal in OA No.29/2011 which was decided on 19.12.2012 and in which the applicant had challenged the subsequent selection made in Advertisement for the year 2010 and for which, interviews were held in 2011 and for which he had also applied but his application was again rejected for the same reason that it was incomplete by virtue of inadequate Caste Certificate and for which he had also subsequently orally requested that he should be considered as General category candidate. That OA was withdrawn by the applicant and withdrawal was permitted on the basis that the selection process has already been cancelled.

7. There is no explanation from the applicant for not challenging the selection process for the year 2009 where he challenged the subsequent selection of the year 2011 and for which he had been rejected for the self-same grounds including for not

considering his alleged oral request.

8. In his MA for condonation of delay, he submits that his application for the post against the Advertisement of 24.01.2009 were improperly rejected and though he could have been considered and this information, he could get under Right to Information Act only in the year 2018. However, it is the admitted case of the applicant that though the applicant applied against the selection process in the year 2009, he was not called for the interview against reserved category candidates and when he allegedly made an oral application for being considered as General Category candidate, the same was not acceded to. In spite of it, he has not chosen to challenge the same whereas by way of OA No.29/2011, he has challenged only the selection process for the year 2010. It also cannot be construed that his challenge to the selection process made in the year 2009 was dependent upon any information under the Right to Information Act when could do so for the process for the year

2010.

9. In these circumstances, we do not find any good and sufficient reason to condone the delay that can be construed as reason beyond his control to condone the delay of ten years in approaching this Tribunal and accordingly, the MA seeking condonation of delay is found to be devoid of any merit and the same is dismissed. Ordered accordingly.

10. In view of the above, the OA also fails and is dismissed.

11. In the facts and circumstances of the case, no order as to costs.

(R.N. Singh)
Member (Judicial)

(R.Vijaykumar)
Member (Administrative)

kmg*

JD
28/6/19

