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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA-3151/2003

New Delhi this the 12th day of May, 2004.

Hon'ble Sh. Shanker Raju, Member(J)
Hon'ble Sh. S.K. Naik, Member(A)

Sh. M.L. Vijaya Kumar,
S/o late Sh. Shouraiiah,
R/o 159, Group-I, Janata Flats,
Hastsal, Uttam Nagar,
New Delhi.

..... Applicant

(None even on second call)

Versus

1. Union of India
represented through the Secretary,
Ministry of Defence,
South Block,
New Delhi-1.
 2. Chief of Naval Staff,
Ministry of Defence,
South Block,
New Delhi-1.
 3. Commodore,
Principal Director,
Directorate of Marine Engineering,
Naval Head Quarter,
Sena Bhawan,
New Delhi-11.
 4. The Flag Officer Commanding-in-Chief
(for SO/Civ), Hq. Eastern Naval
Command, Visakhapatnam,
Andhra Pradesh.
- Respondents

(through Sh. Surinder Kumar, Advocate)

ORDER (ORAL)

Hon'ble Sh. Shanker Raju, Member(J)

Heard the learned counsel of the
respondents and perused the material placed on
record.

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2. O.A. stands disposed of under Rule 15 of the Central Administrative Tribunal (Procedure) Rules, 1987. Applicant through this O.A. has sought notional promotion deeming him to have appeared in the examination held on 17.11.1998. One of the contentions put forth is that vide letter dated 6.11.1998 the respondents have preponed the examination when the applicant was on leave. He had no proper notice of the same and accordingly deprived of an opportunity to participate in paper-III papers which prejudicially effected his chances of promotion.

3. On the other hand, respondents' counsel by referring to the notification and the tentative programme for Departmental Qualifying Examination contended that the examination was to be held between 17.11.1998 to 19.11.1998. Through notice date 6.11.1998, a definite date of the examination has been notified which is not a preponement of date of examination, as the examination could have been held between 17.11.1998 to 19.11.1998. It is further stated that it was incumbent upon the applicant to be vigilant and to have prior notice of the notification.

4. We have carefully considered the pleadings of the O.A. as well as heard the learned counsel of the respondents.

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5. The notification stating the tentative dates when the examination was to be held and a subsequent notification notifying the date of examination on 17.11.1998 cannot be preponement of the examination. The applicant who had deemed notice of the earlier notification should have been vigilant while proceeding on leave. This cannot be attributed to the respondents.

6. In this view of the matter, we do not find any infirmity of the orders passed by the respondents notifying the examination for 17.11.1998 which is within their domain as per the tentative schedule. Applicant who later on appeared and promoted; his promotion cannot be ante dated for want of qualifying the examination.

7. O.A. is accordingly dismissed. No costs.

S. K. Naik
(S.K. Naik)
Member(A)

S. Raju
(Shanker Raju)
Member(J)