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CENTRAL ADMINISTRATIVE TRIBUNAL,

ERNAKULAM BENCH

Original Application No. 181/00235/2020

Thursday, this the 18th day of June, 2020

CORAM:

Hon'ble Mr. P.Madhavan, Judicial Member

Hon'ble Mr.K.V.Eapen, Administrative Member

1. Suhrifa P.P
D/o Abdulla A.P, Aged 26 years
Puthiyapura House, Kiltan Island
Union Territory of Lakshadweep
Pin – 682 558, Ph.8281870931 **Applicant**

(By Advocate : Mr. Ajit G.Anjarlekar)

V e r s u s

1. The Union Territory of Lakshadweep represented by the Administrator
Kavaratti Island, Union Territory of Lakshadweep- 682 555
2. The State Commissioner for Persons with Disabilities (Divyangjan)
Department of Social Welfare and Tribal Affairs, Administration of the
Union Territory of Lakshadweep, Kavaratti Island, Union Territory of
Lakshadweep – 682 555
3. The (Secretary), Department of Education, Administration of
Union Territory of Lakshadweep, Kavaratti Island,
Union Territory of Lakshadweep – 682 555
4. The Director of Education, Directorate of Education
Administration of the Union Territory of Lakshadweep
Kavaratti Island, Union Territory of Lakshadweep – 682 555
5. The Director (Services), Administration of the
Union Territory of Lakshadweep, Kavaratti Island,
Union Territory of Lakshadweep – 682 555 **Respondents**

(By Advocate : Mr.S.Manu)

This application having been heard on 18.6.2020 the Tribunal on the same day delivered the following:

O R D E R (ORAL)

Hon'ble Mr. P.Madhavan, Judicial Member –

Heard the matter through video conferencing. The applicant is a person with benchmark disability. He has all qualifications required for the appointment of a Primary School Teacher. The applicant is aggrieved by the action of the respondents to convert a vacancy which was earlier earmarked for persons with benchmark disabilities into general quota without following the procedures contemplated under the Rights of Persons with Disabilities Act, 2016. Hence he prays for the following reliefs.

“1. Call for the records leading to Annexure A12 notice issued by the Director of Education vide F.No.6/13/2019-Edn/Estt dated 5/3/2020 and quash the same;

2. Direct respondents 3 and 4 not to issue Select List in connection with Annexure A-9 Employment Notice issued by the Directorate of Education vide F.No.6/13/2019-Edn/Estt/1552 dated 19/12/2019 until the identification of posts suitable for the vacancies set apart for “Persons with Disabilities” is completed; or in the alternative, direct the respondents 3 and 4 not to fill up or convert the vacancy set apart for “Persons with Disabilities” in Annexure A-8 and A-9, until the identification of posts suitable for the vacancies set apart for “Persons with Disabilities” is completed by the 5th respondent.

3. Direct the 5th respondent to complete the exercise of identification of suitable posts for Primary School Teacher in tune with the order dated 26.4.2019 of the Hon'ble Supreme Court of India, in Anuj Goyal vs. Union of India and Ors, as expeditiously as possible and within a time frame deemed fit by this Tribunal.

4. Call for the records leading to Annexure A11

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Employment Notice and quash the same to the extent of not earmarking any vacancies for persons with physical disabilities and direct respondents 3 and 4 to issue a fresh Employment Notice, by setting apart sufficient number of posts for "Persons with Disabilities", in compliance of Section 33 and 34 of the Rights of Persons with Disabilities Act, 2016.

5. *Direct respondents 3 and 4 not to issue the Select List pertaining to Annexure A9 and keep in abeyance all proceedings pursuant to Annexure A11 and A12 until the 2nd respondent considers and disposes Annexure A14 representation on merits."*

2. When the matter came up for consideration, the counsel for the respondent vehemently opposed the grant of interim orders as prayed for. He has submitted that the respondents have no objection in considering the representations and passing a speaking order. It appears that the representations given by the applicant at Annexures A-13 and A-14 are still pending before the Competent Authority for consideration. It has also come to the notice of this Tribunal that there exists reservation for physically handicapped persons in Annexure A-9 notification and it is subsequently altered to general category. In such a situation, proceeding with appointment before disposal of the representation is not proper. **In view of the limited submission, without going into the merits, the Original Application is disposed of with a direction to the Competent Authority to consider Annexures A-13 and A-14 representations in the light of relevant law on the subject and Disabilities Act and pass a speaking order within a period of one month from the date of receipt of a copy of this order. Till the order is passed, the Competent Authority shall not fill up the vacancy in question.**

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3. The Original Application is disposed of as above at the admission stage itself. No costs.

(K.V.EAPEN)

ADMINISTRATIVE MEMBER

(P.MADHAVAN)

JUDICIAL MEMBER

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List of Annexures

Annexure A1 : A True copy of the certificate dated 28/05/2010 issued by the Controller of Examinations, Central Board of Secondary Education.

Annexure A2 : A True copy of the Statement of Subject-wise performance dated 28/05/2010 issued by the Controller of Examinations, Central Board of Secondary Education.

Annexure A3 : A True copy of the Certificate of Higher Secondary Examination dated 15/05/2012 issued by the Secretary, Board of Higher Secondary Examination, Government of Kerala.

Annexure A4 : A True copy of the Trained Teachers Certificate issued by the Secretary, Board of Public Examinations, General Education Department, Government of Kerala.

Annexure A5 : A True copy of the consolidated statement of marks dated 04/10/2018 issued by the Controller of Examinations, Annamalai University.

Annexure A6 : A True copy of the Eligibility Certificate dated 23/02/2019 issued by the Central Board of Secondary Education, Delhi

Annexure A7 : A true copy of the Disability Certificate for Physically Handicapped Person dated 26.4.2018 issued by the Chairman and Superintendent of District Medical Board, Ernakulam

Annexure A8 : A true copy of the Employment Notice issued by the Directorate of Education vide F.No.06/02/2018-Edn/Estt dated 31.01.2018

Annexure A9 : A true copy of the Employment Notice issued by the Directorate of Education vide F.No.6/13/2019-Edn/Estt/1552 dated 19.12.2019

Annexure A10 : A true copy of the notice issued by the Directorate of Education vide F.No.6/13/2019-Edn/Estt dated 31.01.2020

Annexure A11 : A True copy of the Employment Notice issued by the Directorate of Education vide F.No.6/1/2020-Edn/Estt dated 28/02/2020.

Annexure A12 : A True copy of the notice issued by the Director of Education vide F.No.6/13/2019-Edn/Estt dated 05/03/2020.

Annexure A13 : A true copy of the representation dated 20.3.2020 preferred by the applicant before the Administrator of Lakshadweep

Annexure A14 : A true copy of the representation dated 20.5.2020 preferred before the State Commissioner for Persons with Disabilities, Union Territory

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of Lakshadweep

Annexure A15 : A true copy of the Office Memorandum dated 15.1.2019 issued by the Ministry of Food Processing Industries

Annexure A16 : A true copy of the Office Memorandum dated 31.1.2019 issued by the Department of Posts, Ministry of Communications

Annexure A17 : A true copy of the Office Memorandum dated 23.9.2019 issued by the Ministry of Tourism

Annexure A18 : A true copy of the Office Memorandum dated 30.7.2019 issued by the Department of Public Enterprises

Annexure A19 : A true copy of the communication dated 24.5.2019 issued by the Ministry of Water Resources

Annexure A20 : A true copy of the Office Memorandum dated 30.7.2019 issued by the Department of Water Resources River Development and Ganga Rejuvenation

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