

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No.181/00040/2017

Monday, this the 15th day of February, 2021

C O R A M :

**HON'BLE Mr.P.MADHAVAN, JUDICIAL MEMBER
HON'BLE Mr.K.V.EAPEN, ADMINISTRATIVE MEMBER**

Fathahudheen C.P., aged 41 years, S/o. Sayed Muhammed,
Residing at Cherikkal Puthiyapura House, Androth Island,
Union Territory of Lakshadweep, Pin – 682 551. **Applicant**

(By Advocate Mr. E.C. Bineesh)

v e r s u s

1. The Administrator, Union Territory of Lakshadweep,
Kavarathi Island, 682 555.
2. The Director, Directorate of Medical & Health Services,
Union Territory of Lakshadweep, Kavarathi Island-682 555.
3. The Medical Superintendent, Office of the Medical Superintendent,
Indira Gandhi Hospital, Administration of the Union Territory of
Lakshadweep, Kavaratty Island, Pin – 682 555.
4. The Chief Medical Officer, Hospital Management Society,
Community Health Centre, Androth Island,
Pin – 682 551. **Respondents**

(By Advocate Mr. S. Manu)

This application having been heard on 11th February, 2021, the
Tribunal on 15.02.2021 delivered the following :

O R D E R

Per : Mr.K.V.EAPEN, ADMINISTRATIVE MEMBER

The applicant is aggrieved by non-appointment against the vacancies
of Male Nursing Orderlies (MNOs) under the Directorate of Medical &
Health Services of the Union Territory of Lakshadweep. He had successfully
completed the training for MNO after being selected by the interview board

constituted for selection of candidates to undergo the said training. Vide Annexure A1, 4 candidates including him were directed to report for training of MNO to the Indira Gandhi Hospital (IGH), Kavaratti on 1.8.2007. Annexure A2 is the mark list dated 24.12.2007 containing the marks awarded to the applicant after the training was conducted. In addition, a certificate dated 27.12.2007 (copy at Annexure A3) was issued to the applicant for successfully completing the training from 1.8.2007 to 30.11.2007.

2. The applicant submits that during the period of his training the qualification for recruitment to the post of MNO was VIIth standard pass along with having to complete the training at IGH, Kavaratti. Later, the respondents amended the Recruitment Rules for MNO/Female Nursing Orderly (FNO) to SSLC pass along with successful completion of the training at IGH, Kavaratti. He submits that though he had successfully completed the training at IGH, Kavaratti, all persons other than him were considered against the available vacancies. Later, after the amendment of the Recruitment Rules, the Department notified vacancies in 2013 based on the revised Recruitment Rules. The applicant had applied but was not considered because it was stated that he did not pass the SSLC examinations. Other applicants were not considered due to the fact that they had not attended the IGH, Kavaratti training. The applicant claims, however, that he had successfully completed the SSCL examination on March, 2013. As such, he was entitled to get appointment as he was fully qualified as per the Recruitment Rules.

3. It is observed that the applicant has produced no documents as part of the OA or subsequently, showing either that he is a VIIth standard pass or a SSLC pass and thus his contention in this regard cannot be taken at face value.

4. On 9.10.2009 vide Annexure A4 the applicant was engaged as a casual labour (unskilled) for watch and guard on daily wage basis at the Community Health Centre Management Society, Androth. This was with effect from 12.10.2009 for a period of 89 days. According to the order, on satisfactory performance, his tenure could be extended with a one-day break if felt necessary. However, this was purely a temporary arrangement and the order also says that it will not confer on him any claim for regular appointment. The applicant submits that this appointment was extended right up to 27.9.2012. He submits that the posts of MNO are still vacant due to non-availability of qualified persons and though he is qualified he has not been considered by the respondents so far. He gave two representations (at Annexures A5 and A6) but fruitful action has not been taken so far. At the time of filing of this OA in 2017, he had completed 41 years of age and therefore, would not be able to get any other job. He claims that he should be appointed as he is fully qualified as per the revised Recruitment Rules.

5. The respondents have filed only a counsel statement through Advocate S. Manu, counsel for the respondents 1-4, on 19.1.2019. As per the counsel statement it is submitted that 5 posts of MNO were notified vide F. No. 5/6/2005-DHMS(2), dated 7.10.2005 and 20.3.2006. As per the then

Recruitment Rules in force, the educational qualification to be appointed as MNO was VIIth standard pass. As per the same Recruitment Rules, selected candidates would have to undergo 4 months nursing orderly training at IGH, Kavaratti. The selection committee selected 10 candidates for training, including the applicant, and all of them were imparted necessary training at IGH, Kavaratti. All of them successfully completed the training. At that point of time only 5 vacancies were there and the candidates up to serial No. 5 in the select list were given appointment as per order dated 9.8.2007. The applicant was at serial No. 8 in the select list and thus could not be appointed. Later, the Department notified 1 clear vacancy of MNO and 5 anticipated vacancies vide its notification dated 29.1.2008. Again, all others in the select list except the applicant were appointed as MNO as per orders dated 16.1.2009 and 1.6.2009. The respondents submit that applicant could not be appointed because he had not passed VIIth standard at that point of time. He had only produced a certificate from the Head Master, Government High School, Androth to the effect that he was a student of VIIth standard but had not produced the certificate to the effect that he had actually passed VIIth standard.

6. By the time fresh vacancies were again notified in the year 2013, the respondents submit that the Recruitment Rules were amended and the required educational qualification now became SSLC pass. The applicant was also over aged. Hence, the Department had no option other than to reject his application again. The respondents submit that the applicant's claim that he was not appointed despite fulfilling all the qualifications is thus absolutely incorrect.

7. We have heard learned counsel for the applicant Shri E.C. Bineesh and the learned counsel for the respondents, Union Territory of Lakshadweep.

8. From the records that have been provided by the applicant as well as the explanation given by the respondent counsel in the statement filed by him, we do not see any possibility for this OA to be settled in favour of the applicant. No certificates from the school relating to his passing the required qualification of VIIth standard, let alone SSLC, have been provided. It is accepted by both the applicant and the respondents that these were minimum essential educational qualifications at the different points of time. Further, the required training was also to be undertaken. While the applicant has admittedly undertaken the required training at IGH, Kavaratti, it is clear that he could not provide any kind of proof relating to the required educational qualifications. In such circumstances, we have no option other than to dismiss the OA and not grant the relief prayed for which is to appoint him to the post of MNO in the service of the respondents.

9. The Original Application is accordingly, dismissed. No order as to costs.

(Dated this the 15th day of February, 2021)

K.V.EAPEN
ADMINISTRATIVE MEMBER

“SA”

P.MADHAVAN
JUDICIAL MEMBER

List of Annexures in Original Application No. 181/00040/2017

- 1. Annexure A1** – True copy of the office memorandum dated 23.5.2007 issued by the 2nd respondent.
 - 2. Annexure A2** – True copy of the mark list dated 24.12.2007 issued by the 3rd respondent.
 - 3. Annexure A3** – True copy of the certificate dated 27.12.2007 issued by the 3rd respondent.
 - 4. Annexure A4** – True copy of the office order dated 9.10.2009 issued by the 4th respondent.
 - 5. Annexure A5** – True copy of the representation dated 1.9.2014 submitted by the applicant before the 1st respondent.
 - 6. Annexure A6** – True copy of the representation dated 3.12.2016 submitted by the applicant before the 1st respondent.
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