

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

OA No.181/00690/2019

Wednesday, this the 23rd day of September, 2020

CORAM:

Hon'ble Mr. P.Madhavan, Judicial Member

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

1. Hindumbi,
W/o Cheriakoya K.P.,
Agricultural Field Man,
Kavaratti Island, U.T. of Lakshadweep.
(Mobile No. 9495461229)
2. P. Tharique,
S/o Thangal Koya,
Agricultural Field Man,
Kalpeni Island, U.T. of Lakshadweep.
(Mobile No. 9447510899)
3. M.V. Zainul Abid,
S/o late Koya C.N.,
Agricultural Field Man,
Minicoy Island, U.T. of Lakshadweep.
(Mobile No. 9447667536)
4. N. Shahuddeen,
S/o. Syed Ismail,
Agricultural Field Man,
Kadmat Island, U.T. of Lakshadweep.
(Mobile No. 9447982516)
5. K.P. Mohammed Iqbal,
S/o late Hamza Koya,
Agricultural Field Man,
Kalpeni Island, U.T. of Lakshadweep.
(Mobile No. 9447990971)
6. T.P. Rahmathulla,
S/o. Pookoya,
Agricultural Field Man,
Androth Island, U.T. of Lakshadweep.
(Mobile No. 9447611141)
7. M.P. Subaida,
D/o Attal N.,

Agricultural Field Man,
Kadmat Island, U.T. of Lakshadweep.
(Mobile No.8281392994)

8. K. Mohammed Khaja Moinuddeen,
S/o. Kunhikoya Thangal,
Agricultural Field Man,
Androth Island, U.T. of Lakshadweep.
(Mobile No. 8547528354)

Applicants

(Advocate: Mr.Shaji Thomas)

Versus

1. Administrator
U.T. of Lakshadweep
Kavaratti-682 555.
2. Secretary (Agriculture)
Directorate of Agriculture
Kavaratti, U.T. of Lakshadweep- 682 555.
3. The Director of Agriculture
Directorate of Agriculture
U.T. of Lakshadweep
Kavaratti -682 555.
4. A. Mohammed
Social Forestry Field Man
Department of Environment & Forest
Androth Island, U.T of Lakshadweep -682 551.
5. M.P. Kassali
Social Forestry Field Man
Department of Environment& Forest
Agathi Island, U.T of Lakshadweep 682 553.
6. K.V. Sharaf
Social Forestry Field Man
Department of Environment & Forest
Kiltan Island, U.T. of Lakshadweep -682 558.
7. M.V. Abdul Gafoor
Social Forestry Field Man
Department of Environment & Forest
Kavaratti Island, U.T of Lakshadweep -682 555.
8. B. Mohamed Koya
Social Forestry Field Man
Department of Environment & Forest
Amini Island, U.T of Lakshadweep-682 552.

9. Smt. F.G. Fathima
Social Forestry Field Man
Department of Environment & Forest
Minicoy Island, U.T. of Lakshadweep-682 559.

10. Smt. N. Halimabi
Social Forestry Field Man
Department of Environment & Forest
Chetlath Island, U.T of Lakshadweep -682 554.

11. S.Koyakidave
Social Forestry Field Man
Department of Environment & Forest
Kadmat Island,
U.T.of Lakshadweep1-692 556.

Respondents

(Advocate: Mr.S.Manu)

This OA having been heard on 27th August, 2020, the Tribunal delivered the following order on 23.09.2020:

ORDER

By P.Madhavan, Judicial Member

This is an OA filed by the applicants seeking the following reliefs:

(i) Declare that the Agricultural Field Man under the Department of Agriculture and having 8 years regular service alone are qualified and entitled to be considered for promotion to the post of Agricultural Supervisor in the Department of Agriculture as per Ann. A4 Recruitment Rules and that persons who were appointed as Social Forestry Field Man and employed in the Department of Environment & Forest are not qualified and entitled to be considered for promotion to the post of Agricultural Supervisor in the Department of Agriculture;

(ii) Direct the respondents 1 to 3 to consider the applicants for promotion to the vacant post of Agricultural Supervisor in the Department of Agriculture as per their seniority in the seniority list;

(iii) Direct the respondents 1 to 3 not to consider or promote respondents 4 to 11 to the vacant post of Agricultural Supervisor in the Department of Agriculture;

2. The main point to be decided in this OA is whether Social Forestry Field Men working under the Department of Environment & Forest are entitled to get

promotion to the post of Agricultural Supervisor in the Department of Agriculture.

The facts of the case are as follows:

3. The applicants in this case were appointed as Agriculture Field Man in the Department of Agriculture, Union Territory of Lakshadweep in the various islands. As part of a programme for implementation of the Scheme - Social Farm Forestry, as per order dated 24.3.1993 (Annexure A1), 10 posts of Social Forestry Field Man (Group-C) and 5 posts of Field Maistry (Group-D) were created. While they were working under the Agriculture Department, the 1st respondent gave approval to transfer the Scheme to the Department of Environment and Forest which was created subsequently. This was done in the year 2014 as per order F.No.8/3/2014-E&F dated 2.12.2014. A copy of the Office Order issued by the Conservator of Forest is produced as Annexure A2. Consequent to the approval of transfer, the 10 posts of Social Forestry Field Man and 5 posts of Field Maistry (re-designated as MSC (Agri.) were transferred from the Department of Agriculture to the Department of Environment & Forest. Accordingly, 8 Social Forestry Field Men and 3 Field Maistry working in Agriculture Department were transferred to the Department of Environment & Forest on 28.7.2015. The order is produced as Annexure A3. The Conservator of Forest was directed to issue necessary posting orders to the said Social Forestry Field Men and Field Maistry. These 8 employees were relieved from the Department of Agriculture to the Department of Environment & Forest. Their salaries and other emoluments were thereafter drawn from the Department of Environment & Forest. According to the applicants, the work of Agriculture Field Man and the Social Forestry Field Man is different in nature. The Agriculture Field Man is working directly under the Agriculture Department and his work is to improve the agriculture vegetation and other allied agriculture activities of the people. The work of Social Forestry Field Man is

related to improvement of social forestry and cultivation of herbs and shrubs like *kandals* in the coastal belt of the Union Territory of Lakshadweep. The Lakshadweep Administration had framed rules for recruitment of Group-C and D posts in the year 2010 and the method of filling up of the posts of Agriculture Supervisor/Junior Technical Assistant is 50% by promotion and 50% by direct recruitment. The qualification necessary for promotion is 8 years regular service as Agriculture Field Man in the Agriculture Department. A copy of the Recruitment Rules is produced as Annexure A4. The respondents are now making attempts to fill up the vacant posts of Agriculture Supervisor in the Agriculture Department by giving promotion to Social Forestry Field Man working in a different department i.e., Department of Environment & Forest, against the Recruitment Rules. According to the applicants, the Social Forestry Field men are not eligible to be promoted as Agriculture Supervisor as per the existing rules. According to the applicants, Respondents 4 to 11 belong to the Social Forestry Field Man category and they were transferred to the Department of Environment & Forest subsequently. The respondents are taking steps to fill the vacant posts of Agriculture Supervisor by promoting Respondents 4 to 11 for which they are not eligible as per rules. So they pray for the reliefs sought, as stated above.

4. Respondents 1-3 filed a detailed reply denying the averments made in the OA. They submitted that 10 posts of Social Forestry Field Man and 5 posts of Maistry were created during 1993 for implementing a Scheme called “Social Farm Forestry” under the 3rd respondent. At that time, there was no Department of Environment & Forest. The Scheme was being implemented by the Agriculture Department. The Director of Agriculture (R3) was the Cadre Controlling Authority. Provisional common seniority list was published by the Agriculture Department including the Field Men of the Social Forestry on 7.12.2017. The final seniority

list of Agriculture Field Man in the Department of Agriculture appointed from 18.4.1992 to 6.11.1997 was also published as per order dated 9.10.2004. Later, some of the Agriculture Field Men working in the Department of Agriculture objected to the inclusion of respondents 4 to 11 in the seniority list of Field Man, contending that separate seniority list for Social Forestry Field Man is necessary to safeguard the promotion prospects of Agriculture Field Man. As per order of the Administrator, the Scheme of Social Forestry was transferred to the Department of E & Forest as per Annexure A3 order. In A3 order, it is clearly mentioned that the Department of Agriculture shall maintain a common seniority list including the name of Field Man and MSE (Agri.) working under the Department of Environment & Forest. Hence the incumbents working under the Department of Environment & Forest are also eligible to be considered for promotion under the Agriculture Department if they are qualified as per the Recruitment Rules. They also contend that the Field Men appointed in the Department of Environment & Forest were also appointed as per Annexure A4 Recruitment Rules, as in the case of the applicants. The nature of work of the Agriculture Field Man and the Social Forestry Field Man is the same. Till the year 2015, Agriculture Field Men and the Social Forestry Field Men were working together in the same Department. Respondents 4 to 11 are seniors to the applicants and hence the claim put forward by the applicants has no merit. Since there is a common seniority list, Respondents 4 to 11 are entitled to get promotion. So the OA is liable to be dismissed.

5. We have perused the pleadings and the various annexures produced in this case. We have also heard the counsels appearing for the applicants and the respondents and the written submission filed by them.

6. According to the counsel for the applicants, Annexure A2 order dated 2.12.2014 clearly shows that a separate Department of Environment & Forest was

created. The Forest and Wildlife was also transferred to the new Department of Environment & Forest in the year, 2014. The Cadre Controlling Authority of the Social Forestry Field Man was also shifted from the Department of Agriculture to the Department of Environment and Forest. Now the Conservator of Forest is the competent authority to issue posting orders to Respondents 4 to 11. All the service particulars were kept in the Department of Environment & Forest. Respondents 4 to 11 were relieved from the Agriculture Department and they joined the Department of Environment & Forest and their salaries and other emoluments are being paid from the said Department. On a reading of the Recruitment Rules, only Agriculture Field Man can be considered for promotion to the 50% quota. The minimum qualification prescribed by the Rules is 8 years of regular service in the Agriculture Department as Agriculture Field Man. There is no mention of Social Forestry Field Man in the said Rules. So, Respondents 4 to 11 are not at all entitled to be promoted as Agriculture Supervisor as claimed by the respondents. A mere administrative instruction that a common seniority list will be kept by the Agriculture Department, alone will not permit the respondents to promote Agriculture Field Man to the post of Agriculture Supervisor.

7. On the other hand, counsel for the respondents would submit that in the beginning, the Union Territory of Lakshadweep was having only Agriculture Department and 10 posts were created for the purpose of implementing the Social Forestry Scheme. They were under the Agriculture Department and there existed a common seniority list. There is no other promotion avenue for Agriculture Field Man in the Department of Environment & Forest. He produced a copy of the decision of the Hon'ble Supreme Court in *R.S.Makashi and others vs. I.M.Menon and others*, relating to the staff who were engaged in the early stage for implementing the statutory rationing in Maharashtra. He also produced a copy of

the decision of the Hon'ble Supreme Court in *K.R.Mudgal and others vs. R.P.Singh and others*, and *Malcom Lawrence Cecil D'souza vs. UOI and others*.

8. We have anxiously considered the submissions made by both sides. As per the Recruitment Rules produced as Annexure A4, Agriculture Field Man is appointed as per the Rules notified on 13.5.2010 (Annexure A4). The post of Agriculture Supervisor is a promotion post shown for Agriculture Field Man. As per Schedule II, it is a Group-C post (non-Gazetted). The method of recruitment shown for the said post is 50% by promotion and 50% by direct recruitment, failing which by deputation. The qualification prescribed for recruitment by promotion is – Agriculture Field Man /Lab Technician with 8 years regular service in the Grade in the Agriculture Department under the Lakshadweep Administration. It also gives the composition of committee. So, if we go through the Recruitment Rules Annexure A4 for the post of Group-C and D, the promotion to the Agriculture Supervisor has to be done from the Cadre of Agriculture Field Man having 8 years regular service. No other category is mentioned as the feeder category for the promotion. Any promotion to the post of Agriculture Supervisor has to be undertaken on the basis of the Recruitment Rules. When there is no provision for promoting Social Forestry Field Man, the official respondents cannot promote respondents 4 to 11 to the said post. Even though Respondents 4 to 11 were appointed first under the Agriculture Department, in the year 2014, all Social Forestry Field Men and Maistries were relieved from the Agriculture Department and they were absorbed by the Department of Environment & Forest which was created later. The Conservator of Forest was made the Cadre Controlling Authority. So it is not clear how the Social Forestry Field Men can be considered under the Recruitment Rules for promotion to the post of Agriculture Supervisors. According to the respondents, there exists a common seniority list for Agriculture Field Man

and Social Forestry Field Man and so the Social Forestry Field Men are also entitled to get promotion under the Recruitment Rules. We are not impressed with the interpretation of the Rules in this case. There is absolutely no mention regarding the Social Forestry Field Men in the Rules and they belong to another Department at present. Respondents 4 to 11 had gone to the Department of Environment & Forest and they cannot come back to the Agriculture Department for promotion. When there exists a separate Rule for appointment to the post of Agriculture Supervisor, it has to be followed and no executive instructions can override the Rules contained in the said notification. We do not find any merit in the objection raised by the respondents in this case. So we find merit in the contentions of the applicants and we hold that Social Forestry Field Men are not entitled to get promotion to the post of Agriculture Supervisors, as contended by the applicants. The decisions referred by the counsel for respondents have no direct bearing on the question in issue. **So we declare that the Social Forestry Field Men are not eligible for promotion to the post of Agriculture Supervisor as per the Recruitment Rules. Respondents 4 to 11 are not entitled to get promotion to the post of Agriculture Supervisors, as claimed by the respondents. The OA is accordingly allowed.**

(K.V.Eapen)
Administrative Member

(P.Madhavan)
Judicial Member

Annexures filed by the applicants:

Annexure A1: Photocopy of the Order F. No. 2/4/93-Agri. (4) dated 24.03.1993 issued by the 1st respondent.

Annexure A2: Photocopy of the Office Order F. No. 8/3/2014-E &F (2) dated 02.12.2014 issued by the Conservator of Forest.

Annexure A3: Photocopy of the Order F. No. 1/1/2015-Agri./278 dated 28.07.2015 issued by the 3rd respondent.

Annexure A4: Notification No. F. No. 3/1/2010- Agri. Dated 14.05.2010 issued by the 3rd respondent

Annexure A5 series: Photocopies of Appointment Orders F. No. 2/5/92-Agri. dated 30.03.1993 and 04.01.1994 issued by the 3 respondent Dated this the 17th day of September, 2019.

Annexure A6: Photocopy of the letter F.no.2/4/2020-Agri./28 dated 23.6.2020

Annexures filed by the respondents:

Annexure R1(a): Copy of the O.M.,F.No.1/12/2017-Agri/645 dated 7.1.22017.

Annexure R1(b): Copy of the O.M.,F.No.1/12/2017-Agri/292 dated 19.1.2019.

Annexure R1(c): Copy of he order dated 9.10.2004.