

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Original Application No. 422/2012

Tuesday, this the 1st day of January, 2013

C O R A M :

**HON'BLE Mr. JUSTICE P.R. RAMAN, JUDICIAL MEMBER
HON'BLE Mr. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

A.K. Nasimudheen, aged 23 years,
S/o. K.K. Cheriyakoya,
Permanently residing at
"Alikkada House, Kalpeni Island,
UT of Lakshadweep. **Applicant.**

(By Advocate Mr. K.M. Anthru)

v e r s u s

1. Union of India represented by
Administrator,
UT of Lakshadweep, Kavaratti.
2. The Collector cum Development Commissioner,
UT of Lakshadweep.
3. The Director of Education,
UT of Lakshadweep, Kavaratti.
4. Shamila Mumthaz C.G,
W/o. Anwar Sadat, aged 22 years,
Residing at Kalpeni Island,
Union Territory of Lakshadweep. **Respondents.**

(By Advocate Mr. S. Radhakrishnan for R1-3 &
Mr. M.R. Hariraj for R-4)

This O.A. having been heard on 13.12.12, this Tribunal on 01.01.13
delivered the following :-

ORDER

HON'BLE Mr. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER

Applications from the qualified local candidates for appointment to the
post of Language Teacher (Arabic) under the UT of Lakshadweep



Administration were invited vide Annexure A-4 notification dated 21.02.2011. The last date for submitting the application with attested copies of certificates was 19.03.2011. The merit list of selected candidates was to be valid upto 01.04.2012 and for those vacancies that may arise upto 01.04.2012. The recruitment process was delayed and the examination was conducted only on 01.06.2012. Meanwhile, the applicant who passed the final year examination of B.Ed course in October, 2011, represented for consideration of his candidature also as he was fully qualified and the examination was yet to be conducted. However, the respondents did not entertain the certificate issued to the applicant on 18.02.2012 as the applications received on or before 19.03.2011 at 05.00 p.m were only to be entertained. Aggrieved, the applicant has filed this O.A to get the Annexure A-1 notice dated 16.05.2012 publishing the list of eligible candidates for Teacher Eligibility Test (TET) quashed to the extent it excludes the applicant and for a direction to the respondents to renotify the vacancies of Language Teacher (Arabic) and also for a declaration that the applicant is entitled to be considered for selection to the post of Language Teacher (Arabic).

2. The applicant contended that the refusal of the respondents to renotify the vacancies which were not filled up for the last one year and thereby denying the chance to compete for the post for him and other similarly placed candidates who are fully qualified within that period, is arbitrary and violative of the fundamental right of the applicant enshrined under Articles 14 and 16 of the Constitution of India to be considered for employment under the Government of India. After the Annexure A-4 was notified in February, 2011, 4 more vacancies have arisen; the applicant is denied opportunity to compete against these vacancies. The delay occurred in conducting the TET for

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Arabic Teachers is purely due to the lethargy and irresponsibility of the Lakshadweep Administration. As done on earlier occasions, the respondents could have renotified the vacancies with a rider that those who had already applied need not apply again. The applicant may have to wait for more than 05 years for subsequent selection in case Annexure A-4 notice is not extended. The contention that the certificate received after the cut off date fixed for receipt of application cannot be entertained is not based on any sound law. The selection was conducted not only for the vacancies existed at the time of notification, but also for future vacancies. Merely because the certificate has been issued only on 15.02.2012 does not mean that he was not qualified earlier.

3. The respondents contended that the applicant was not qualified either on the date of notification of the vacancies or on the last date fixed for receipt of the application. He obtained essential qualification of B.Ed. only after 11months from the last date of receipt of application. Therefore, he is not eligible for applying for the post of Language Teacher (Arabic) as per the notification dated 21.02.2011. The recruitment as per the notification dated 21.02.2011 was delayed due to various administrative reasons which were timely communicated to the candidates through notice. The Calicut University which was entrusted with the task of conducting the examination, could conduct the examination only on 01.06.2012. There is no intentional delay or latches on the part of the respondents in not conducting the TET immediately after issuance of the notification and the delay was solely due to reasons beyond their control. All the vacancies which arose subsequent to 01.04.2012 will be notified and fresh recruitment will be conducted. Therefore, the delay in conducting the selection will not cause any prejudice to the candidates who

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qualified subsequent to the date of notification. Even if the examination was held in time, the result would not have been different since the vacancies upto 01.04.2012 would have got filled up on the basis of Annexure A-4 notification. There are several candidates like the applicant who are awaiting patiently and with optimism for the fresh notification. The respondents have not done any injustice to the applicant or any other candidates but acted only in accordance with the rules and law. They relied on the judgement of Hon'ble Supreme Court in **Bhupindarpal Singh and Others vs. State of Punjab and Others**, (2000) 5 SCC 262, to drive home the point that the cut off date by which the eligibility requirement was satisfied by a candidate seeking a public employment is the date fixed for the purpose in the advertisement calling for applications. They also relied on the judgement of Hon'ble High Court of Kerala in **Mehaboob Razool vs. Public Service Commission**, (1995) 2 KLT 718, in which it was held that the qualification prescribed for a post shall be the one acquired by the candidate before the date of application.

4. The 4th party respondent in his reply statement submitted that the Original Application is liable to be dismissed on the ground of non-impleadment of the candidates included in the check list. The TET conducted on 01.06.2012 though delayed, was exclusively conducted for the candidates who had applied pursuant to the notification dated 21.02.2011 and who had requisite qualifications as on last date of submission of the application. The applicant did not possess the requisite qualifications as on the last date of submitting the application. In fact, he had not even submitted an application. Therefore, he cannot aspire for the vacancies which arose upto 01.04.2012 as even those vacancies have to be filled up from the merit list drawn from among the candidates who had applied pursuant to notification dated



21.02.2011.

5. We have heard Mr. Shafik for Mr.K.M. Anthru, learned counsel for the applicant, Mr. S. Radhakrishnan, learned counsel for the respondents 1 to 3 and Mr. P.A. Kumaran for Mr. M.R. Hariraj, learned counsel for the respondent No. 4 and perused the records.

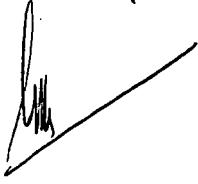
6. The applicant had not applied for the post of Language Teacher (Arabic) as per notification dated 21.02.2011 because he was not eligible. Therefore, he has no locus standi in the selection process pursuant to the notification dated 21.02.2011. Only those who applied and were qualified for consideration could have a legitimate grievance over the delay in conducting the selection. If the selection was conducted in time, the applicant could not have filed this O.A. The delay in conducting the selection does not crystallize a right for consideration for the applicant who was not qualified to apply in response to the notification dated 21.02.2011. The recruitment was delayed not due to lethargy or irresponsibility on the part of the Lakshadweep Administration. The Calicut University to which the selection was entrusted in the interest of fairness and efficiency could conduct the examination only on 01.06.2012. The delay was due to reasons beyond the control of the official respondents. We do not find any intentional delay and laches on their part. The official respondents have averred that a fresh notification will be issued for filling up the vacancies which arose subsequent to 01.04.2012. The applicant and similarly placed candidates can apply in response to that notification as and when it is issued. Therefore, the delay in conducting the recruitment, in the instant case, has not caused any prejudice to the applicant or any other candidates who qualified subsequent to 21.02.2011. The settled

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legal position is that the qualifications prescribed for a post shall be acquired by the candidate on or before the cut off date fixed in the notification inviting applications.

7. In the result, we do not find any merit in the contention of the applicant. The O.A is dismissed with no order as to costs.

(Dated, the 01st January, 2013)



K.GEORGE JOSEPH
ADMINISTRATIVE MEMBER



JUSTICE P.R. RAMAN
JUDICIAL MEMBER

cvr.