

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. NO. 427/2006 & 142/2007

WEDNESDAY THIS THE 1st DAY OF AUGUST, 2007

C O R A M

HON'BLE MRS. SATHI NAIR, VICE CHAIRMAN
HON'BLE DR. K.B.S. RAJAN, JUDICIAL MEMBER

O.A. 427/2006

Dharwesh Khan M.P. S/o Koya M.K.
Junior Engineer, Department of Electricity
Kavaratti, U.T. Of Lakshadweep
residing at Mariyappada House,
Kalpeni Island-682 537

Applicant

By Advocate Mr. M.R. Hariraj

Vs.

- 1 Union of India represented by the
Secretary to the Government
Ministry of Power, Shram Shakti Bhavan
New Delhi.
- 2 The Administrator
U.T of Lakshadweep, Kavaratti.
- 3 The Executive Engineer
Department of Electricity
Kavaratti, UT of Lakshadweep
- 4 Abdul Hassan H.P. S/o Attakoya
Junior Engineer (Electrical)
Electrical Sub Division, Androth
UT of Lakshadweep
- 5 B.C. Hamid S/o Kasmi
Junior Engineer (Electrical)
Electrical Sub Division, Androth
Amini Island, UT of Lakshadweep
- 6 K.Syed Mohammed, S/o P. Eyyas
Junior Engineer(Electrical)
Electrical Sub Division, Androth,
Amini Island, UT of Lakshadweep

- 7 K.K. Cheriya Koya S/o Pookoya
Junior Engineer (Electrical)
Electrical Sub Division Androth
Karakkakkada, Androth
UT of Lakshadweep.
- 8 V.B. Ali S/o Mohammad
Junior Engineer (Electrical)
Electrical Sub Division. Kittan, Minicoy
UT of Lakshadweep.
- 9 K.C. Nazer S/o Muthukoya
Junior Engineer (Electrical)
Electrical Sub Division, Kittan, Minicoy
UT of Lakshadweep.
- 10 A.C. Attakoya S/o Essa
Junior Engineer (Electrical)
Electrical Section
UT of Lakshadweep.
- 11 V.P. Muthukoya S/o T.K. Koylakidavu
Junior Engineer (Electrical)
Electrical Section, Chethilath
UT of Lakshadweep.
- 12 K.K. Zulfeekar Safaria S/o Basha
Junior Engineer (Electrical)
Electrical Sub Division, Kadamath,
UT of Lakshadweep.
- 13 C.H. Abdul Latheef S/o Syed Abdulla Koya
Junior Engineer (Electrical)
Electrical Sub Division
UT of Lakshadweep.
- 14 Mohammed Basheer H.P. S/o Kunhikoya
Junior Engineer (Electrical)
Electrical Sub Division Amini
UT of Lakshadweep.
- 15 K. Ayshomma D/o Mohammed Koya
Junior Engineer (Electrical)
Electrical Sub Division
Amini, UT of Lakshadweep

16 K.K. Cheriyappa Koya S/o Abdul Khadar
Junior Engineer (Electrical)
Electrical Sub Division
Kochi.

By Advocate Mr. Shafik M.A. for R 2-3
Advocate Mr. M.V. Thampan for R 4-16

O.A.142/2007

- 1 Naseerudheen K.P. S/o Attakoya K.P.
Junior Engineer (Electrical)
Kalpeni, Lakshadweep
Kumbupura House, Kiltan Island
U.T. Of Lakshadweep
- 2 Anwar Sadath S/o Imbichi Koya
Junior Engineer, Electrical)
Now working at Kochil
Resident of Chirathottam House,
Kalpeni Island
U.T. Of Lakshadweep
- 3 Mohammed P.P. S/o Koya P.
Junior Engineer, Department of Electricity
Kavaratti, U.T. Of Lakshadweep
Residing at Pandarappura
Agatti Island
UT of Lakshadweep.

By Advocate Mr. M.P. Krishnan Nair

Vs

- 1 Union of India represented by
the Administrator
Lakshadweep administration
Kavaratti
UT of Lakshadweep.
- 2 Executive Engineer
Department of Electricity
Kavaratti
UT of Lakshadweep.
- 3 Abdul Hassan N.P. S/o Attakoya
Junior Engineer (Electrical)
Electrical Sub Division Androth
UT of Lakshadweep.

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Electrical Sub Division
Androth, Amini Island
UT of Lakshadweep.
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Electrical Sub Division, Androth,
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Electrical Sub Division. Kittan,Minicoy
UT of Lakshadweep.
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Junior Engineer (Electrical)
Electrical Sub Division, Kittan,
UT of Lakshadweep.
- 9 A.C. Attakoya S/o Essa
Junior Engineer (Electrical)
Electrical Section
UT of Lakshadweep.
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Junior Engineer (Electrical)
Electrical Sub Division
UT of Lakshadweep.
- 13 Mohammed Basheer H.P.S/o Kunhikoya
Junior Engineer (Electrical)
Electrical Sub Division Amini
UT of Lakshadweep.

14 K. Ayshomma D/o Mohammed Koya
Junior Engineer (Electrical)
Electrical Sub Division
Amini, UT of Lakshadweep

15 K.K. Cheriya Koya S/o Abdul Khadar
Junior Engineer (Electrical)
Electrical Sub Division
Kochi.

By Advocate Mr. Shafik M.A. for R 1 & 2
Advocate Mr. M.V. Thamban for R 3-15

ORDER

HON'BLE MRS. SATHI NAIR, VICE CHAIRMAN

The applicants in both these OAs are Junior Engineers (Electrical) in the Department of Electricity under the Lakshadweep Administration. The prayers of the applicants in both the OAs relate to finalisation of the amendment to the Lakshadweep Administration Assistant Engineers (Electrical) Electricity Department Group-B posts Recruitment Rules 1977.

2 The subject of challenge in both the OAs being the same they were heard together and are being disposed of by this common order.

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3 The applicant is aggrieved by the delay in finalising the proposed amendment to the L&D Administration Assistant Engineers Group-B Recruitment Rules 1977. The Recruitment of Assistant Engineer in the Lakshadweep Electrical Department is governed by the said Rules of 1977 according to which the Junior Engineers with

Graduate qualification on completion of three years of regular service and Diploma holder Junior Engineers with 7 years of regular service are eligible for promotion. There was a proposal to amend the same, however for a long time the amendment was kept pending. Aggrieved, certain Graduate Engineers approached this Tribunal in O.A. 1382/97. The O.A. was disposed of directing the respondents to take a final decision on the amendment. The matter is still in the process of consideration and final decision in this regard is not forthcoming. It is also pointed out that similar rules governing the post of Assistant Engineer (Civil) in the Public Works Department of the UT of Lakshadweep have already been amended. Therefore, the applicants herein seek a direction to the respondents to finalise the proposal to amend the said rules of the Electricity Department of Lakshadweep Administration.

4 In the reply statement, the official respondents have pointed out that the Recruitment Rules followed for the post of Assistant Engineer (Civil) in the Lakshadweep Public Works Department are on different footing those in the Electricity Department. They have submitted that the question of prescribing separate quota for Degree and Diploma Engineers is under consideration by the competent authority and suitable decision will be taken based on merits. It is further submitted that as far as prescription of qualification and its relevance and suitability, the Hon'ble Supreme Court has held in the following cases that it is exclusively the prerogative of the Executive

and not for Courts to consider.

- (i) J. Rangaswami Vs. Government of Andhra Pradesh and Others (AIR 1999SC 535)
- (ii) V.K.Sood Vs. Secretary, Civil Aviation and Others (AIR 1993 SC 2285)
- (iii) General Manager, Southern Railway Vs. Rangachari (AIR 1962 SC 36)
- (iv) State of Mysore Vs. P. Narasingh Rao (AIR 1968 SSC 349)
- (v) State of Orissa Vs. Swamy (AIR 1977SC 1237)

5 The private respondents who are Degree holder Junior Engineers have also filed a reply statement on the same lines.

6 The applicant through M.A. No. 414 /2007 brought on record certain documents Annexures A-7 and A-8. Annexure A-7 is the minutes of the meeting of the Committee for framing/amendment of recruitment rules under the respondents held on 12.1.2006 and Annexure A-8 is a copy of letter dated 6.11.2006 issued by the Secretary, Power UT Lakshadweep forwarding the draft amendment to the Recruitment Rules based on the report of the Committee.

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7 The applicants herein are also Degree holder Junior Engineers (Electrical) of Lakshadweep Administration. They are also aggrieved by the present Recruitment Rules which provide an edge to the Diploma holders in promotion to the post of Assistant Engineers and are seeking that the method of Recruitment from the grade of Junior Engineer should

be made by prescribing a quota between the Diploma and Degree holders in the ratio of 50:50. They have also averred that similar provision is already existing in the Recruitment Rules in the Public Works Department of the Lakshadweep Administration notified on 26.8.1999. The applicants have submitted a representation through proper channel in Annexure A-7 on 7.3.2007 addressed to the Secretary, Ministry of Power. They have also brought to our notice that one post of Assistant Engineer is likely to arise in the month of July, 2007 and therefore a decision has to be taken expeditiously.

8 The official respondents have not filed any reply statement.

9 The party respondents 6 to 15 who are Diploma holders, have filed a reply stating that framing of Recruitment Rules is the domain of subordinate legislation and the Tribunal cannot direct the Government to frame the rules in a particular manner or amend the rules in a particular way to suit only one section of the employees. They have submitted that if 50% vacancies are set apart for Degree holders, the promotion prospects of the Diploma holders who have already put in long years of service and waiting for promotion will be considerably reduced.

10 We have heard the learned counsel S/Shri M.P.Krishnan Nair and M.R. Hariraj appearing for the applicants and Shri Shafik appearing for the U.T. Administration.

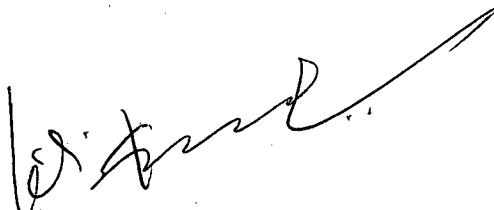
11 The prayer of the applicants in both the OAs is to finalise the amendment to the Recruitment Rules under consideration expeditiously

and to prescribe a specific quota between degree and diploma holders in the case of promotion to the post of Assistant Engineer. As far as Recruitment Rules and consideration of amendments thereof are concerned, the law is well settled as pointed out by the Respondents. It is a subject matter exclusively within the domain of the executive as the State is best equipped to decide the suitability of qualifications required for the posts in the Department with reference to the duties and functions keeping in view efficient management of the man power within the department. Unless any serious infringement to the principles of natural justice is averred, such decisions cannot be interfered with by the Courts/Tribunals. That being the general position of law, in this case particularly a decision has not yet been taken by the respondent Department as evidenced from the document placed in O.A. No. 427/06 which position is also confirmed by the learned counsel for the Respondents during the arguments that the matter is under consideration of the Ministry. It also appears from Annexure A-7 that a Committee had been constituted to look in to the matter who have considered the issue in detail and thereafter a proposal has been sent to the Ministry.

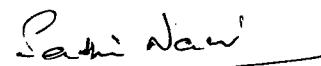
12 We are therefore of the considered view that as the matter is already engaging the attention of the first respondent, the OAs can be disposed off with a direction to the respondents to take a decision on the proposals of the UT Administration expeditiously. However, we find that the Committee it appears from the materials produced before us, met in 2006. The representation which has been submitted by the applicants in O.A. 142/2006 by Annexure A-7 is dated 7.3.2007 after the deliberations of the Committee. Perhaps this representation could not have been

considered by the Committee or by the concerned Department before the proposals for amendment was sent to the Ministry. Therefore, the 2nd respondent shall forward the comment of the U.T. Administration on the Annexure A7 representation of the applicants in O.A. 142/2007 also to the 1st respondent within three weeks so that the same will be available to the Government of India for taking a decision on the proposal for amendment forwarded by the Lakshadweep Administration already vide Annexure A-8 dated 6.11.2006. It is also directed that the first respondent shall finalise the amendment proposals and take a decision within a period of three months from the date of receipt of the comments from the U.T. Administration as directed above. The OA is disposed of as above. No costs.

Dated 1st August, 2007



DR. K.B.S. RAJAN
JUDICIAL MEMBER



SATHI NAIR
SATHI NAIR
VICE CHAIRMAN

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