

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.433/99

Friday, this the 13th day of July, 2001.

CORAM;

HON'BLE MR A.M.SIVADAS, JUDICIAL MEMBER

HON'BLE MR T.N.T.NAYAR, ADMINISTRATIVE MEMBER

K.Nallakoya,
Casual Labourer,
Coir Fibre Factory,
Union Territory of Lakshadweep,
Androth Island. - Applicant

By Advocate Mr P Sanjay

Vs

1. The Union of India represented by
the Administrator,
Union Territory of Lakshadweep,
Kavaratti.
2. The Director of Industries,
Union Territory of Lakshadweep,
Kavaratti.
3. Kasmi Koya,
Casual Labourer,
Coir Fibre Factory,
Androth,
Union Territory of Lakshadweep. - Respondents

By Advocate Mr PR Ramachandra Menon(for R.1&2)

The application having been heard on 13.7.2001, the Tribunal
on the same day delivered the following:

O R D E R


HON'BLE MR A.M.SIVADAS, JUDICIAL MEMBER

Applicant seeks to quash the offer of appointment
issued to third respondent as per order No.1/12/98-Ind dated
25.3.99, to declare that he is eligible and entitled to be
appointed as Group'D' Helper at the Coir Fibre Factory at

Androth, to direct "the respondent" to appoint him as Helper Group'D' Coir Fibre Factory at Androth in accordance with the seniority, to quash R-3 in so far as it stipulates pass in the 4th Standard as the qualification for the post of Helper or in the alternative, to direct the respondents to relax the educational qualification of the applicant considering the long number of years of continuous service.

2. Applicant is a Casual Labourer since 1.6.86 in the Coir Fibre Factory at Androth. He has put in 13 years as a Casual Labourer. For the post of Group'D' Helper, the minimum qualification prescribed is a pass in the 4th Standard. It is unwarranted. The third respondent is junior to him. Respondents 1 to 3 are taking steps arbitrarily to appoint the third respondent as Helper, overlooking the seniority of the applicant and several others.


3. Official respondents resist the O.A. contending that as per Recruitment Rules for the post of Helper in Industries Department, a pass in 4th Standard and 5 years' experience as a worker in Coir Fibre Factory is prescribed. The applicant is not eligible for appointment to the post of Helper in the Fibre Factory. No casual labourer without the minimum educational qualification of 4th Standard pass is appointed to the post of Helper in the Fibre Factory. The third respondent was appointed only after considering the qualification, experience and other conditions in accordance with the Recruitment Rules. The applicant has no locus standi to



question the educational qualifications prescribed in the Recruitment Rules.

4. R-2, the Recruitment Rules for the post of Helper in the Industries Department say that the educational qualification is pass in 4th Standard. R-3 Recruitment Rules are issued in supersession of R-2 Recruitment Rules. R-3 also says that for the post in question, the educational qualification prescribed is a pass in 4th Standard. The applicant though challenges the qualification prescribed in the Recruitment Rules finds it more convenient not to state in the O.A. what is his educational qualification. Fortunately from A-2 submitted by the applicant and certain others, it is clearly seen that his educational qualification is only 3rd Standard. So it is very much clear that the applicant is not possessed of the educational qualification prescribed as per the Recruitment Rules. A person does not satisfy the conditions prescribed in the Recruitment Rules cannot heard to say that he should be considered.

5. It is true that there is a provision for relaxation in the Recruitment Rules. The relaxation provision says that where the Administrator is of opinion that it is necessary or expedient to do so, he may, by order, for reasons to be recorded in writing, relax any of the provisions of these Rules with respect to any class or category of persons, except Rule 4 of these Rules. So the relaxation provision is applicable only in respect of any class or category of




persons. It is not to be applied in the case of an individual. On the basis of the relaxation provision contained in the Recruitment Rules, the applicant cannot seek for relaxation of the qualification prescribed in the Recruitment Rules.

6. In order to be eligible to be considered for Group'D' Helper post, one should have the qualification prescribed. The applicant is not possessed the qualification. That being so, he could not be considered.

7. The applicant has sought to quash the stipulation contained in the Recruitment Rules regarding the educational qualification as 4th Standard pass. Prescribing educational qualification is a matter within the realm of the administration. It is not for the Tribunal to decide what should be qualification of a particular post. It is the executive power, resting on the rule making authority to decide what educational qualification should be prescribed for a particular post.

8. The applicant has sought to quash the order appointing the third respondent as Group'D' Helper. At the same time, it is interesting noting that in para 4.5 of the O.A., it is stated thus:

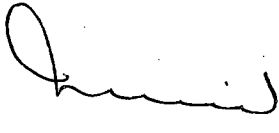
"..However, respondents 1 to 3 are taking steps to arbitrarily appoint him as Helper overlooking the seniority of the applicant and several others."



So the appointment has not taken place and is in the process of issuing an appointment order. If that is so, there cannot be a relief for quashing the order of appointment. But at any way, R-4 says that the 3rd respondent has been offered the temporary post of Helper in the Industries Department. The applicant has no case that the third respondent is not possessed of the qualification prescribed as per the Recruitment Rules. His case is only with the 3rd respondent is junior to him. The appointment to the post of Helper Group'D' is not made on the basis of the seniority. Official respondents have clearly stated that as the third respondent has satisfied all the requirements prescribed as per the Recruitment Rules, the third respondent was considered for appointment. The applicant cannot seek for quashing the offer of appointment made to the third respondent as Group'D' Helper on the basis that the third respondent is junior to the applicant. As the applicant does not possess the qualification as per the Recruitment Rules and the official respondents have stated that the third respondent does possess the prescribed qualification and the same is not denied by the applicant, the applicant is not entitled to get quashed the offer of appointment issued to the third respondent as Group'D' employee.

9. We do not find any merit in this application. Accordingly, the O.A. is dismissed. No costs.

Dated, the 13th July, 2001.


T.N.T. NAYAR
ADMINISTRATIVE MEMBER


A.M. SIVADAS
JUDICIAL MEMBER

trs

LIST OF ANNEXURES REFERRED TO IN THE ORDER:

1. A-2: True copy of the representation dated 11.2.99 submitted by the applicant.
2. R-2: True copy of the Recruitment Rules for the post of Helper in Industries Department issued as per Notification F.No.40/72/80-Genl. dated 25.11.81.
3. R-3: True copy of the Lakshadweep Administration, Department of Industries(Group 'C' & 'D' posts) Recruitment(Amendment) Rules, 1997 issued as per Notification No.F.No.1/18/96-IND dated 7.4.97.
4. R-4: True copy of the order F.No.1/12/98 Ind. dated 25.3.99 issued from the office of the 1st respondent.