CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.384/2003, OA 415/2003 & OA 439/2003.

Tuesday this the 4th day of January, 2005

C O R A M

HON'BLE MR A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR H.P.DAS, ADMINISTRATIVE MEMBER

OA 384/2003 :

1. T.Salihath,
'Thalakkada'
Agatti Island,
UT of Lakshadweep

2. C.K.Ramlabi
'Chekkakil House',
Kavaratti Island,
UT of Lakshadweep : Applicants

[By Advocate Mr.N.Nagaresh]

Vs.

1. The Union of India represented by
the Secretary,
Ministry of Home Affairs,
New Delhi.

2. The Secretary to Government of India,
Department of Education,
Ministry of Human Resources Development,
New Delhi.

3. The Administrator,
UT of Lakshadweep.
Kavaratti.

4. The Director of Education,
UT of Lakshadweep,
Kavaratti : Respondents

[By Advocate Mr.C.Rajendran, SCGSC (R-1)
Mr.S.Radhakrishnan, R 3 & 4]

OA 415/2003 :

1. B.K.Umer
Baliyakulam House
Amini Island
UT of Lakshadweep.

2. C.K.Nafeesathbi
'Chekkekil', Kadamath Island
UT of Lakshadweep : Applicants

[By Advocate N.Nagaresh]

Vs.

1. The Union of India represented by
the Secretary,
Ministry of Home Affairs,
New Delhi.

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2. The Secretary to Government of India,
Department of Education,
Ministry of Human Resources Development,
New Delhi.

3. The Administrator,
UT of Lakshadweep.
Kavaratti.

4. The Director of Education,
UT of Lakshadweep,
Kavaratti : Respondents

[By Advocate Mr.C.Rajendran, SCGSC (R-1)
Mr.S.Radhakrishnan, R 3 & 4]

OA 439/2003 :

Thanga Koya P.
Pakkemmada House, Amini Island
UT of Lakshadweep : Applicant

[By Advocate Mr.V.D.Balakrishna Kartha]

Vs.

1. Union of India represented by
the Administrator,
Union Territory of Lakshadweep
Kavarathi.

2. The Collector-cum-Development Commissioner,
Union Territory of Lakshadweep
Kavarathi.

3. The Director of Education,
Union Territory of Lakshadweep,
Kavarathi : Respondents

[By Advocate Mr.S.Radhakrishnan, (R1-3)]

These applications having been heard on 30.09.2004, the Tribunal on 04.01.2005, delivered the following:

O R D E R

HON'BLE MR A.V.HARIDASAN, VICE CHAIRMAN

Since common issues are involved these three O.As are being considered together and are being disposed of by this common order.

O.A 384/03 and O.A 415/03 :

The applicants in these two Original Applications, members of the Scheduled Tribe of the Union Territory of Lakshadweep who had passed Pre degree examination but getting marks below 40% were sponsored by the 3rd respondent for studying in Teachers Training Institute (Woman) at Kozhikode in Kerala with full scholarship. They successfully completed the course and passed the TTC examination with more than 50% marks. Although in a selection held for appointment to 9 posts of Primary School Teachers during October, 2002, the 1st applicant was also called for interview, she was not selected as only 5 posts were filled. The present grievance of the applicants is that the respondents have issued Annexure A-1 Recruitment Rules by which 50% of the vacancies are required to be filled by candidates with B.Sc education or Bachelor of Elementary Education or its equivalent with a minimum of 40% marks and remaining 50% by candidates with Senior Secondary School Certificate /PDC or its equivalent with TTC with a minimum of 40% marks in each of the above examinations. Since the applicants did not get 40% marks in Senior Secondary School or PDC examination they have become ineligible to apply. They submitted representations to the 2nd respondent requesting that they may also be considered for the post although they did not get 40% marks, but they did not get favourable response. They are also aggrieved by earmarking 50% vacancies to be filled by Graduate in education which according to them is opposed to the ruling of the Hon'ble Supreme Court in C.A.No. 1726-28 of 2001

reported in P.M.Latha & Anr. Vs.State of Kerala & Ors., 2003 SC(L&S) 339. The applicants having been sponsored by the 3rd respondent to study TTC with scholarship exclusion of their names from the field of choice just because they did not get 40% marks in PDC examination is violative of Articles 14 & 16 of the Constitution of India, according to the applicants. With these allegations the applicants have filed these Original Applications seeking to set aside the notification Annexures A-1 and A-2 and for a declaration that earmarking 50% of Primary School Teachers by graduate in education is illegal and for a direction to the respondents to consider the applicants for selection and appointment.

2. Respondents contend that the Lakshadweep Administration though have sponsored the applicants in these two cases for undergoing TTC course, no guarantee was given that they would be appointed on completion of the course, that the amendment of the Recruitment Rules prescribing 40% marks for PDC examination as also TTC examination was prescribed taking into consideration the poor standard of teaching in the local schools in Lakshadweep which has resulted in detriment to the children studying in the school being unable to compete with students studying in Navodaya School, Kendriya Vidyalaya etc., that unlike Kerala the lower primary and upper primary are taught by Primary School Teachers. That to improve the standrad of teaching and for utilising the Primary Teachers with degree in education for teaching Standards V to VIII, the amendment was made in the Recruitment Rules, prescribing a minimum marks of 40% in PDC and TTC examination and also

setting apart 50% of vacancies to candidates with degree in education and this having been done in public interest, is perfectly justified and is not in violation of Articles 14 and 16 of the Consttitution. Since the respondents are competent to amend the Recruitment Rules to further public interest the Tribunal may not interfere, plead the respondents.

OA 439/03 :

The applicant a member of the Scheduled Tribe of the Lakshadweep is a graduate in History with 35% marks in the final examination and has acquired B.Ed degree with 65%. He did not get 40% mark in the PDC examination also in B.A. However, he possesses the qualification prescribed for Primary School Teachers as also Trained Graduate Teachers in accordance with the qualification prescribed by the National Council for Teacher Education in Notification No.F.9-2/2001-MCTE dated 03.09.2001. (Annexure A-I). His grievance is that the 1st respondent has issued Annexure A-2 Recruitment Rules which prescribe that for being eligible for appointment by direct Recruitment to the post of Trained Graduate Teacher the candidate should have obtained 40% marks in each degree and the prescribed 40% marks in PDC as also TTC examination for the post of Primary Teacher. Because of the cut of mark of 40% the applicant has become ineligible to be considered. When the applicant came to know that on account of the amendment to the Recruitment Rules his candidature for appointment for the post of Trained Graduate Teacher as also Primary School Teacher was not likely to be considered, he submitted a representation

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requesting that he be considered at least for the post of Primary School Teacher taking into account the fact that the applicant is a scheduled tribe candidate and chances of getting employment elsewhere is meager. Finding no response to his representation the applicant has filed this Original Application for a declaration that restriction of marks in Annexure A-2 is illegal and without jurisdiction, that the applicant is entitled to be considered for the post of Trained Graduate Teacher and Primary School Teacher and for a direction to the 2nd respondent to consider the applicant for selection as Trained Graduate Teacher or atleast a Primary Teacher as per A-3 notification. It is alleged that Annexure A-2 Recruitment Rules to the extent it violates the direction in Annexure A-1 notification by National Council for Teacher Education is invalid for want of jurisdiction.

2. The respondents seek to justify the impugned notification and the amendment of the Recruitment Rules on the ground that with a view to improve the standard of education which was very poor in the local schools under the Lakshadweep Administration it has been decided to prescribe that a minimum standard for selection and appointment as Trained Graduate Teacher and Primary Teacher and that this being a policy decision the Tribunal may not interfere.

3. With a view to ascertain that while sponsoring the applicants in these cases any assurance had been given that they will be appointed on completion of their course, we had called upon the respondents to make available the file regarding sponsoring of candidates for teachers training in

Kerala. The learned counsel for the respondents had produced the file.

4. The points for consideration in these cases are :-

(i) whether prescription in the Recruitment Rules for Primary Teacher and Trained Graduate Teacher of 40% marks in PDC/Higher Secondary as also TTC examination and for degrees as eligibility condition, is invalid for lack of jurisdiction or for violation of Articles 14 and 16 of the Constitution ?

(ii) whether earmarking of 50% of the vacancies of the post of Primary Teacher for recruitment of Graduate in education is not sustainable ?

(iii) whether the applicants who have been sponsored by Lakshadweep Administration for studying teachers training course with scholarship have a right to be appointed although they did not get the prescribed minimum marks in the concerned examination ?

5. We have very carefully perused the entire pleadings and documents brought on record and have heard at length. Shri Nagaresh, learned counsel for the applicants appearing in O.A. Nos. 384/03 and 415/03 and Shri V.D.Balakrishna Kartha the learned counsel for applicant in OA 439/03 as also Shri

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S.Radhakrishnan, who appeared for the respondents in these cases. From the file which was made available for perusal at the time of hearing we find that while sponsoring the candidates for teachers training in the Institution in Kerala there was no offer or undertaking that on acquisition of the concerned qualification, the sponsored candidate would be appointed. Thus it is evident that for being appointed to the post of Primary Teacher or Trained Graduate Teacher the candidate should possess the educational qualification etc. prescribed in the Recruitment Rules for the time being in force. Shri Nagaresh, learned counsel for the applicant in OA 384/03 and OA 415/03 argued that amendment of the Recruitment Rules earmarking 50% of the vacancies of primary teachers to be filled by Graduate in Education as against the ruling of the Apex Court in P.M. Latha & Anr Vs. State of Kerala & Ors., 2003 SCC (L&S) 339 and therefore that provision of Recruitment Rules is invalid. On the facts of the case, we find that the applicants are not persons aggrieved by earmarking 50% of the vacancies to the post of Primary Teachers to be filled by Graduate in Education because even if that condition was not there yet the applicant would be ineligible because they do not possess the 40% marks required in PDC examination for selection and appointment as Primary Teacher. Further we find that the decision to throw upon 50% of the vacancies for appointment of candidates with degree in education was taken with a view to improve the standard of education and to get better qualified persons to teach upper primary classes. This being a policy decision we are of the considered view that the Tribunal should not interfere. Further, Hon'ble Supreme Court itself has in

the decision relied on by the learned counsel for applicant in P.M.Latha & Anr. Vs. State of Kerala & Ors, 2003 SCC(L&S) 339 observed as follows :-

> "Whether for a particular post, the source of recruitment should be from the candidates with TTC qualification or B.Ed qualification, is a matter of recruitment policy. We find sufficient logic and justification in the state prescribing qualification for the post of primary teachers as only TTC and not B.Ed. Whether B.Ed qualification can also be prescribed for primary teachers is a question to be considered by the authorities concerned but we cannot consider B.Ed candidates, for the present vacancies advertised, as eligible."

6. In the case under citation, the qualification prescribed for Primary teachers was only TTC and B.Ed. was not prescribed and therefore the Apex Court held that B.Ed candidates were not eligible to be considered. However, we note that the Apex Court has observed that whether TTC qualification is to be prescribed or B.Ed qualification is to be prescribed is a mater of policy. In this case, as a matter of policy the Government of U.T.of Lakshadweep has decided to prescribe B.Ed degree as a qualification for 50% of the vacancies. The argument of the learned counsel for applicants that this prescription as also prescription of a cut off marks of 40% is opposed to the notification dated 03.09.2001 of the National Council for Teacher Education and therefore is without jurisdiction is absolutely untenable because the said notification does not prohibit prescription of minimum percentage of marks in any examination or any qualification higher than the minimum prescribed for good and sufficient reasons. Therefore, we are of the considered view that the Recruitment Rules and notification which are impugned in these cases are sustainable

and not liable to be interfered by the Tribunal. The argument of the applicants that they having been sponsored by the Lakshadweep Administration for Teachers Training throwing them out of the zone of consideration on the basis of cut off marks is unsustainable also has no force because sponsorship and award of scholarship do not confer on them a right to be appointed even if they do not meet the prescribed prescriptions in the Recruitment Rules.

7. In the result, in view of what is stated above, all the applications are bereft of merit and therefore we dismiss these applications. There is no order as to costs.

Dated, the 4th January, 2005.

Sd/-
H.P. DAS
ADMINISTRATIVE MEMBER

Sd/-
A.V. HARIDASAN
VICE CHAIRMAN

vs