

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.380/03 & O.A.No.445/03

Wednesday this the 9th day of June 2004

C O R A M :

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

O.A.380/03

Benazeer Beegum C.N.
D/o.M.K.Koya,
Cheriyam Nallal House,
Kalpeni Island,
U.T. of Lakshadweep.

Applicant

(By Advocate Mr.Shafik M.A.)

Versus

1. Union of India represented by
the Administrator, U.T. of Lakshadweep,
Kavaratti.
2. The Collector Cum Development Commissioner,
U.T. of Lakshadweep, Kavaratti.
3. The Director of Education,
U.T. of Lakshadweep,
Kavaratti.

Respondents

(By Advocate Mr.S.Radhakrishnan)

O.A.445/03

B.Mohammed Basheer,
S/o.Usman Badayil,
Baniyam House,
Kavaratti Island,
U.T. of Lakshadweep.

Applicant

(By Advocate Mr.Shafik M.A.)

Versus

1. Union of India represented by
the Administrator, U.T. of Lakshadweep,
Kavaratti.
2. The Collector Cum Development Commissioner,
U.T. of Lakshadweep, Kavaratti.
3. The Director of Education,
U.T. of Lakshadweep, Kavaratti.

Respondents

(By Advocate Mr.S.Radhakrishnan)

These applications having been heard on 9th June 2004 the Tribunal on the same day delivered the following :

O R D E R

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

The facts, circumstances and law involved in both these cases being similar they are being considered and disposed of by this common order.

2. The only question that arises for consideration in both these cases is whether a pass in the Afzal-Ul-Ulama preliminary would entitle the applicants in these cases to compete for the post of Language Teacher Arabic Grade II in the Education Department of U.T. of Lakshadweep. The factual matrix is that the applicants in both these cases have passed the Afzal-Ul-Ulama preliminary after two years of study from Calicut University which is being treated necessary qualification for recruitment to the post of Language Teacher Arabic in Kerala as per the Kerala Education Rules and that although they applied for selection to the post of Language Teacher Arabic Grade II pursuant to notification Annexure A-3 in O.A.380/03 they were not considered for selection for the reason that they did not hold the Afzal-Ul-Ulama title which is said to be the essential qualification. The applicant in O.A.380/03 was sponsored by the Employment Exchange while the applicant in O.A.445/03 was not sponsored.

3. When the application came up for hearing, by interim order dated 9.5.2003 in O.A.380/03 the applicant was also directed to be considered for selection at the interview provisionally. By order dated 30.5.2003 in O.A.445/03 a vacancy was directed to be kept vacant.

4. The prayer in both these applications are for a declaration that the exclusion of the applicants from even competing in the selection for the post of Language Teacher Arabic Grade II as per Annexure A-4 notification is illegal, arbitrary and violative of Articles 14 & 16 of the Constitution of India, that the applicants are entitled to be permitted to be considered for selection as Language Teacher Arabic Grade II and for a direction to the respondents to consider the applicants for selection.
5. The respondents in both these applications resist the claim of the applicants. In their statement it is contended that since the applicants did not possess the Afzal Ul Ulama title which is equivalent to B.A. Degree and have only passed the preliminary examination after attending the course for two years they are not as per the Recruitment Rules eligible for being considered for selection. The qualification has been prescribed according to the respondents to match the requirements of service, that pass in preliminary Afzal Ul Ulama is sufficient for appointment for Language Teacher in Kerala does not entitle the applicants to seek appointment to the post of Language Teacher Arabic under the Lakshadweep Education Department as the essential qualification is Afzal Ul Ulama title, contend the respondents.
6. We have carefully gone through the pleadings and materials placed on record and have heard learned counsel for the parties. Learned counsel of the applicant argued that prior to the

notification of the Recruitment Rules in the year 2002 a pass in the preliminary examination of Afzal Ul Ulama was considered sufficient qualification for appointment as Language Teacher Arabic Grade II and that while the Lakshadweep Administration followed the system of education in Kerala and while in Kerala pass in preliminary examination of Afzal Ul Ulama is sufficient for appointment as Language Teacher Arabic Grade II, the action on the part of the respondents in throwing the applicants totally out of consideration on the ground that they have not completed five years of course in Afzal Ul Ulama is arbitrary, irrational and violative of Articles 14 & 16 of the Constitution of India. Learned counsel for the respondents, on the other hand, argued that as the applicants who do not satisfy the eligibility criteria under the Recruitment Rules, namely, possession of qualification prescribed for recruitment they are not entitled to be considered for selection. The prescription of qualification for appointment as Language Teacher Arabic Grade II under the Education Department of Lakshadweep Administration is totally within the domain of the Education Department of the Lakshadweep Administration and this has no nexus with what qualification prescribed in Kerala or any other state for that matter, argued the learned counsel. Since there is no challenge to the provisions of the Recruitment Rules the applicants are not entitled to claim a declaration that they are entitled to be called for selection against the provisions of the Recruitment Rules, argued the learned counsel.

7. After hearing the learned counsel on either side, we find considerable force in the arguments advanced on behalf of the

respondents. May be the Kerala Government decided that for appointment to the post of Language Teacher Arabic Grade II in Kerala a pass in preliminary of Afzal Ul Ulama is sufficient qualification but that does not bind the Lakshadweep Administration to adopt the same qualification in Lakshadweep. Shri. Radhakrishnan the learned counsel for the respondents submitted that the grade structure of Arabic Language Teachers in Lakshadweep are not similar to that in Kerala and that the Lakshadweep Administration has fixed the qualification taking into consideration of all the relevant factors and materials and therefore the Tribunal may not interfere in the matter. It is well settled that the courts and tribunals should not interfere with the provisions of Recruitment Rules regarding essential qualifications prescribed or pay scale determined unless it is shown that such prescriptions are totally arbitrary or vitiated. It has not been made out in this case that there is any arbitrariness or other vitiating factors. Further the applicants have not challenged the vires of the Recruitment Rules. Under these circumstances the applicants who do not possess the Afzal Ul Ulama title which is the qualification prescribed in the Recruitment Rules, but has only passed the preliminary examination for Afzal Ul Ulama are not entitled to the declaration or direction sought in these applications.

8. In the light of what is stated above finding no merit we dismiss these applications leaving the parties to bear their own costs.

(Dated the 9th day of June 2004)

Sd/-
H.P. DAS
ADMINISTRATIVE MEMBER

Sd/-
A.V. HARIDASAN
VICE CHAIRMAN

asp