

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO. 455 OF 2009

Wednesday, this the 3rd day of March, 2010.

CORAM:

**HON'BLE Mr. JUSTICE K. THANKAPPAN, JUDICIAL MEMBER
HON'BLE Mr. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

Noorul Huda S.M.,
S/o. Pookoya Meriyamada,
Residing at Suhara Manzil,
Anthroth Island,
U.T. of Lakshadweep.

... **Applicant**

(By Advocate Mr. Shiju Varghese)

versus

1. Union Territory of Lakshadweep rep.
by the Administrator, Kavarathi,
U.T. of Lakshadweep.
2. The Director of Education,
Department of Education,
U.T. of Lakshadweep.

... **Respondents**

(By Advocate Mr. S. Radhakrishnan)

The application having been heard on 03.03.2010, the Tribunal on the same day delivered the following:

ORDER

HON'BLE Mr. JUSTICE K. THANKAPPAN, JUDICIAL MEMBER

The applicant filed this original application challenging Annexure A1 and A2 Recruitment Rules and also the Annexure A3 notification issued under the Recruitment Rules inviting application for the post of Post Graduate Teachers by the respondents.

2. The case of the applicant is that in pursuance of Annexure A3 notification dated 31.01.2009, applications have been invited for posts of Post Graduate Teachers in different subjects and the applicant also applied for the

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post of Post Graduate Teacher in English. However, the procedure for selection to the said post have been under provisions of Annexure A1 and A2 Rules, which according to the applicant is arbitrary and illegal, as the selection shall be based on an entrance examination or a competitive examination and interview to be conducted may be held on that behalf. Hence he filed this original application praying to quash the Recruitment Rules as well as the notification. The original application has been admitted by this Tribunal on 07.07.2009 and notice has been ordered to the respondents. In pursuance to the notice received from this Tribunal a reply statement has been filed for and on behalf of the respondents. The stand taken in the reply statement is that because of the difficulties to attend any recruitment test or interview conducted by various departments and due to non-availability of conveyance, the Administration had a meeting of all parties and came to a conclusion as per the order dated 28.04.2007 numbered as F.No.2/37/2005-service, a copy of which was marked as Annexure R1(a) to make appointments on the basis of marks obtained for qualifying examination and as per the Recruitment Rules.

3. Further it is stated that the Lakshadweep Administration are empowered to make Recruitment Rules like Annexure A1 & A2 and they are competent to do so for the purpose of the administration of the Island under Article 320 (3) (a) & (b) of the Constitution of India which as the Recruitment Rules Annexure A1 & A2 prescribes the procedure for appointment to the post and recruitment has been conducted on the basis of above rules. With regard to the malpractice and favouritism alleged by the applicant, it is stated that there was no room for such malpractice or favouritism if the Recruitment Rules are followed and the method and procedures and the selection be made for any post. Hence the Department followed the rules and procedures prescribed

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under the Recruitment Rules and strictly in accordance with the Annexure A3 notification. It is further submitted in the reply statement that the selection is also over and offer of appointment were given to the selected candidates. In view of the above angle, none of the grounds stated in this original application is sustainable and the O.A. has to be dismissed by this Tribunal.

4. We have heard counsel appearing for the respondents Mr. S. Radhakrishnan and also perused the statements in the O.A. and documents produced before this Tribunal. According to the applicant, since the different Universities are awarding different marks for same subjects, it is not proper on the part of the Department to give selection or make recruitment on the basis of the marks obtained in the qualifying examination and hence there shall be a written examination and interview. This position has already been considered by this Tribunal in several other cases. Hon'ble High Court of Kerala has also considered the same question. With regard to the contention of the applicant that there will be a chance for malpractice and favouritism if the recruitment is made under the Annexure A1 and A2 Recruitment Rules, the counsel appearing for the respondents relying on the reply statement submits that since there was allegation against such written tests and selection made, the Administration has considered the question and came to the conclusion that if Recruitment Rules provide any such method of written examination or interview, then only such method can be followed. Since there is no provision for such method of written examination and interview, no such method is followed as per the rules and this is in accordance with the judgment of the Apex Court reported in 2003 (2) SCC 632 in P.U. Joshi and others v. Accountant General, Ahmedabad and others. In the above judgment the Apex Court has categorically held that "There is no right in any employee of the State

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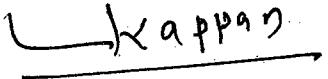
to claim that rules governing conditions of his service should be forever the same as the one when he entered service for all purposes and except for ensuring or safeguarding rights or benefits already earned, acquired or accrued at a particular point of time, a government servant has no right to challenge the authority of the State to amend, alter and bring into force new rules relating to even an existing service."

5. Further in a latest judgment of Apex Court in 2008 (9) SCC 242 in Union of India v. Pushpa Rani and others, the Apex Court held that "The Court has no role in determining the methodology of recruitment or laying down the criteria of selection. It is also not open to the Court to make comparative evaluation of the merit of the candidates. The Court cannot suggest the manner in which the employer should structure or restructure the cadres for the purpose of improving efficiency of administration."

6. In the light of the above principles laid down by the Apex Court and the reasons stated in this order, we see that this O.A. is without any merit and hence we dismiss the application without any order for cost.

(Dated, the 3rd March, 2010.)


K. GEORGE JOSEPH
ADMINISTRATIVE MEMBER


JUSTICE K. THANKAPPAN
JUDICIAL MEMBER