

CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH

Original Application No. 460 of 2011

Tuesday, this the 15th day of May, 2012

CORAM:

Hon'ble Mr. Justice P.R Raman, Judicial Member
Hon'ble Mr. K. George Joseph, Administrative Member

Fathahudheen M., aged 36 years, S/o. V.K. Abubacker Koya,
 Makashi House, Agati Island, Union Territory of Lakshadweep,
 Earlier Working as Post Graduate Teacher on contract basis at
 Govt. Senior Secondary School, Kiltan. **Applicant**

(By Advocate – Mr. M.P. Krishnan Nair)

V e r s u s

1. Union of India, Rep. by Administrator,
 Union Territory of Lakshadweep,
 Kavaratti – 682 555.
2. The Director of Education,
 Union Territory of Lakshadweep, Kavaratti – 682 555.
3. The Director of Social Welfare and Tribal Affairs,
 Union Territory of Lakshadweep, Kavaratti,
 Commissioner of Disability, Kavaratti-682 555.
4. Chief Commissioner of Persons with Disabilities,
 Sarojini House, Bhagawan Das Road, New Delhi,
 Pin Code – 110 001. **Respondents**

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

This application having been heard on 10.04.2012, the Tribunal on

15/05/2012 day delivered the following:

O R D E R

By Hon'ble Mr. K. George Joseph, Administrative Member -

This Original Application has been filed by the applicant for a

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direction to the respondents to take immediate corrective steps to implement the 3 percentage reservation for handicapped persons to the post of PGT (History) and to implement the same and also for a declaration that he is entitled to get appointment to the post of PGT (History) against the quota reserved for handicapped person.

2. The applicant possess BA & BEd. Degree in English and MA in History. He worked as PG teacher (History) on contract basis in Government Jawaharlal Nehru Senior Secondary School, Kadamat from 12.6.2010 to 25.12.2010 and Government Senior Secondary School, Kiltan from 26.12.2010 to 31.3.2011. The applicant is a disabled person with 40% disability. There are 117 posts identified for appointment of person with disabilities in the Union Territory of Lakshadweep, out of which two posts of Lecturers are identified for direct recruitment under the Department of Education.

3. The applicant contends that though he is academically qualified and experienced and had applied for the post of PG Teacher (History) he has not been considered for the same by the respondents. There are 5 posts of P.G. Teacher (History) being operated on contract basis for the last five years. He being a disabled person with 40% disability has a right to claim one of the post of PG teacher (History) under the reserved quota for the disabled or under the general quota.

4. The respondents in their reply statement submitted that posts of Lecturers out of which two were identified for the disabled became a dying

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cadre consequent on the re-designation of two junior colleges at Kadamat and Androt i.e. Jawaharlal Nehru Senior Secondary School & Mahatma Gandhi Senior Secondary School respectively under the Union Territory of Lakshadweep. On retirement of incumbents the post of Lecturers get automatically abolished. Posts in the Senior Secondary Schools are sanctioned stage by stage. Since 2000, no committee was constituted to identify posts suitable for the disabled persons. When a committee is constituted afresh the case of PGT will also be referred to it and on the basis of their recommendation, identification of posts will be done and notifications will be issued giving equal opportunity to all the qualified differently abled persons to participate in the selection. The applicant cannot claim a personal reservation as far as such posts are concerned. The recruitment rules for the post of Graduate Teacher has been formulated incorporating all the conditions consequent on the revision of pay scale on the implementation of the VIth Central Pay Commission. As per the recruitment rules the educational qualification prescribed for direct recruitment is minimum 50% marks in Post Graduation in the relevant subjects as main subjects and BEd. or equivalent in the same subject. The applicant possess PG in History and BEd. in English. As he could not fulfill the basic educational qualifications as per the recruitment rules to the post of PGT (History), his request was not considered by the Department.

5. In the rejoinder statement the applicant submitted that as per notification F. No. 18/3/2009 dated 31.1.2009 (Annexure A3) the educational qualification for the post of PG Teacher is Masters Degree in



the subject concerned and a degree or a recognized diploma in education. The applicant possess MA in History and BEd. in English. Therefore, he is qualified as per the notification at Annexure A3. Mr. Sadakathulla Khan M.M – Chethlath (Geography) was selected directly as per notification dated 31.1.2009, Annexure A3. He has got Masters Degree in one subject and post graduate degree in another subject.

6. We have heard the learned counsel for the parties and perused the records.

7. From the facts of the case it emerges that the applicant though a disabled person had applied for the post of PGT (History) in the general category. In the notification for the post of PGT (History) along with other PGT posts there was no quota reserved for the disabled. In the absence of reservation for the disabled in the notification dated 31.1.2009 inviting applications for filling up the post of PGTs, the applicant has no ground to claim that his disability should be considered for selection. As and when notification is issued giving equal opportunity to all disabled persons to participate in the selection, the case of the applicant can also be considered if he applies for the post notified in the category of disabled. In a general selection the applicant cannot have personal reservation on the ground of his disability. Having stated this we would observe that it is the duty of the respondents to make earnest efforts to identify posts for the disabled and fill them up so that qualified disabled persons are enabled to live a dignified life as per various orders of the Government of India and the Persons with

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Disabilities Act, 1995.

8. The applicant has responded to the notification dated 31.1.2009 inviting application for the post of PGT History for Senior Secondary School in the General quota. He was not considered by the Department for the reason that he did not have the requisite qualification as per the recruitment rule i.e. BEd. or equivalent degree in the same subject as Master's degree. The applicant contended that one Mr. Sadakathulla Khan M.M though similarly situated as himself was selected as PGT Teacher, Geography. As per Annexure A3 notification F. No. 18/3/2009, dated 31.1.2009 the educational qualifications for the post of PGT Teachers is Masters degree in the subjects concerned and degree or recognized diploma in education. The notification does not state that the Masters Degree and the Degree in Education should be in the same subject. The respondents have not responded to these contentions. If the notification dated 31.1.2009 was in accordance with the old recruitment rules the new recruitment rules insisting on BEd. in the same subject as Masters degree is not applicable. Therefore, the non-consideration of the applicant for the post of PGT (History) for which selection process was initiated is illegal. Therefore, it is only appropriate that the respondents should consider the case of the applicant for appointment as PGT as per the notification dated 31.1.2009 and give him appointment if he is found fit. If no post is available to accommodate him if found fit, he should be adjusted against a post that will be available in future. Ordered accordingly.

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9. Original Application stands disposed of as above with no order as to costs.


(K. GEORGE JOSEPH)
ADMINISTRATIVE MEMBER


(JUSTICE P.R RAMAN)
JUDICIAL MEMBER

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