

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No.510/2001

Dated Friday this the 31st day of January, 2003.

C O R A M

HON'BLE MR.G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER
HON'BLE MR.K.V.SACHIDANANDAN, JUDICIAL MEMBER

Abdul Kabeer C.G.
alias C.G.Kabeer
S/o Hamzakoya
Residing at Kakkailam
Kalpeni
Union Territory of Lakshadweep. Applicant.

[By advocate Mr.M.R.Rajendran Nair]

Versus

1. Union of India represented by
its Secretary to Govt. of India
Ministry of Industries
New Delhi.
2. The Administrator
Union Territory of Lakshadweep
Kavarathi.
3. Director of Industries
Union Territory of Lakshadweep
Kavarathi.
4. Mohammed Kasim
Madalavima, Amini
Union Territory of Lakshadweep.
5. A.Hamza
Director of Industries
Union Territory of Lakshadweep
Kavarathi.

Respondents

[By advocate Mr.P.M.M.Najeeb Khan, ACGSC for R1]
[Mr.P.R.Ramachandra Menon for R 2 & 3]
[Mr.Shafik M.A.for R4]

The application having been heard on 31st January, 2003,
the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR.G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

Applicant, aggrieved by order No.1/29/94 Industries dated
2.6.2001 offering the 4th respondent the post of helper in
Hosiery Factory, Kalpeni, filed this Original Application seeking
the following reliefs:



- i) Quash order F.No.1/29/94-Ind dated 2.6.2001 issued by 3rd respondent.
- ii) Declare that the 4th respondent is not qualified and eligible to be appointed as helper at the Hosiery Factory, Kalpeni.
- iii) Direct respondents 1 to 3 to consider the applicant for appointment as helper at Hosiery Factory, Kalpeni.
- iv) Grant such other reliefs as may be prayed for and the Court may deem fit to grant, and
- v) Grant the cost of this Original Application.

2. According to the averments of the applicant in the OA, he was a Scheduled Tribe handicapped individual (deaf and had delayed development of meaningful speech) having studied up to SSLC. In support of his handicap, he produced A-1 certificate dated 29.9.93 issued by the Medical Board, General Hospital, Ernakulam. 3rd respondent by A-2 circular dated 6.1.2001 invited applications from eligible handicapped candidates with pass in IV standard, and minimum 5 year experience as worker in Hosiery factory under Industries Department between 18 to 25 years of age, relaxable by 5 years for SC/ST candidates, to the post of helper in Hosiery Factory, Kalpeni. Applicant applied for the post. He was called for an interview. Though he was the only person with any experience at all at the Hosiery Factory, he was not informed of any developments thereafter. He made A-4 representation dated 10.5.2001 to the 2nd respondent. Not getting any reply and understanding that the 4th respondent who had no experience at all had been issued the offer of appointment, and alleging that the same was arbitrary, unjust and unfair, the applicant filed this OA seeking the above reliefs. According to the applicant, 4th respondent was not qualified to be appointed as helper and he had been offered appointment on some ulterior considerations and the action of the respondents was vitiated by malafides. It was also alleged that the appointment had been made without considering relevant facts.



3. Respondents 2 & 3 filed reply statement resisting the claim of the applicant. According to them, all the candidates whose names were sponsored by the District Employment Exchange, Kavaratti and all those who applied direct to the Department were called for the interview which was held on 21.3.2001 at Kavaratti and 20 candidates appeared for the interview. The certificates and records of all the 20 candidates were initially verified by the Interview Board and it was found that all the 20 candidates were within the age group eligible for the post and possessed pass in 4th standard and also produced necessary certificates indicating the percentage of disability. It was also noticed that none of the 20 candidates possessed five years experience stipulated in the Recruitment Rules. No oral interview was conducted and hence no mark on this account was given to any candidate as the disability was ranging from deformation of the body parts to deaf and dumb. Therefore the Interview Board decided to give a trade test in the field of stitching as the main work attached to the post of Group-D helper in the Hosiery Unit was stitching of Baniyans and it was compulsory for any candidate to be appointed in the Hosiery Unit that he should know stitching on the ordinary tailoring machines. Accordingly, a trade test for assessing the proficiency of the candidates in stitching of clothes was conducted in the Industrial Training Institute, Kavaratti. In the trade test, the candidates were given one metre length of cloth to take two types of stitching on the ordinary stitching machines. They were instructed to give a plain straight stitch length wise on a piece of the cloth and the edge folding stitch on the same piece of cloth length wise. All the candidates were given marks and the mark list was produced as Annexure R-3. On the basis of the marks assigned to various

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candidates, the applicant had scored only 4 marks out of 10 and he stood 5th in merit list whereas the 4th respondent Shri Mohammed Kasim scored 8.5 marks out of 10 and he became first in the merit list and accordingly the 4th respondent was recommended by the Interview Board for appointment to the post of Group 'D' Helper in the Hosiery Factory as per the minutes of the Interview Board dated 21.3.2001 and in the light of the above, the claim of the applicant was baseless and without any substance. The recommendation of the Interview Board contained in R2 was further scrutinised by the competent authority under Lakshadweep Administration and the possibility of relaxing the requirement of 5 years experience as a worker in the Hosiery Unit was considered initially. Keeping in view that the interview was conducted to select a person for appointment to a Group 'D' post from among the handicapped persons and the recommendation was after conducting a trade test for assessing the proficiency of the candidates in the field of stitching, the Administrator, U.T. of Lakshadweep who was the competent authority relaxed the above provision of experience as per order dated 2.6.2001. Further action to issue offer of appointment and thereafter orders of appointment to Shri Mohammed Kasim by the Administrator, U.T. of Lakshadweep was done after relaxing the experience provision of the Recruitment Rules as per Rule 5 of the Recruitment Rules. 4th respondent was a Scheduled Tribe candidate and had studied up to 10 standard and was having disability of 44%. All the remaining 18 candidates who appeared for the interview were also within the age and possessed educational qualification and were physically handicapped persons. It was evident from the register maintained by the Supervisor, Hosiery Unit, Kalpeni that the facility of piece rate work was extended to the applicant for 153

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days in 1997 and 68 days in 1998 and 90 days in 1999 and he had not availed the above facility thereafter. Therefore, the contention of the applicant that he was engaged for piece rate work from 1997 onwards was baseless, false and misleading. The applicant had been given a fair and equal chance as was given to all other candidates who appeared in the interview to perform in the trade test. He could not come first in the merit list against the single vacancy and hence the Interview Board could not recommend him for appointment in preference to others. The allegation that the reason for selecting 4th respondent was because he was a resident of Amini, the native island of 5th respondent was totally false and was without any bonafides. The 4th respondent was not in any way related to the 5th respondent. The selection was made purely on merit and the contention to the contrary was false.

4. 4th respondent filed a separate reply statement resisting the claim of the applicant. He submitted that he had passed SSLC, was orthopedically handicapped having osteo arthritis of right knee following osteomyelitis. All movements of his right knee joint was restricted due to the shortening of right leg. According to the Medical Board, he was having 44% disability. He had registered his name with the employment exchange for employment of light nature. He had been offered the post of Helper in Hosiery Factory, Kalpeni on a temporary basis as per Annexure R4(a) dated 2.6.2001. He accepted the same and joined the post on 22.6.2001. He averred that he had got no other influence other than being handicapped person waiting in the queue for a permanent employment. In the absence of any experienced person, the selection committee had considered the



individual merits of the candidates. Experience by working on piece rate basis did not constitute the relevant experience as stated the Recruitment Rules or in A-2 circular. The OA lacked merit and was liable to be dismissed.

5. Heard the learned counsel for the parties.

6. We have given careful consideration to the submissions made by the learned counsel for the parties and the pleadings and have perused the documents brought on record. On the basis of the materials placed before us, we are of the considered view that the applicant is not entitled to the reliefs sought for through this OA.

7. The first ground advanced by the applicant is that he was having experience working at Hosiery factory from 1997, though on piece rate. The respondents have categorically stated in the reply statement that the applicant had worked for 153 days in 1997, 68 days in 1998 and 90 days in 1999. The applicant has not denied the same by filing any rejoinder. As per the notification, the experience required is 5 years. The applicant does not have this experience. It has also been submitted by the respondents that the Administrator of Lakshadweep Administration had as per his order dated 2.6.01 relaxed the provision of experience finding that none of the candidates who responded to the notice had the requisite experience. The interview board which was constituted to conduct the selection for the lone post of Helper in the Hosiery Factory had, finding that none of the candidates possessed the required qualification, conducted the

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trade test and selected the 4th respondent for the post. On going through R-2 proceedings and the tabulated statement in A-4, we do not find that the selection process was in any way arbitrary and we are of the considered view that the interview board had taken into account the relevant materials in selecting the 4th respondent.

8. In the light of what is stated above, the OA is only to be dismissed and we do so accordingly leaving the parties to bear their respective costs.

Friday this the 31st January, 2003.



K.V. SACHIDANANDAN
JUDICIAL MEMBER



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER

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