

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No. 511/2001.

Tuesday this the 30th day of March, 2004.

CORAM:

HON'BLE MR.T.N.T.NAYAR, ADMINISTRATIVE MEMBER
HON'BLE MR.K.V.SACHIDANANDAN, JUDICIAL MEMBER

K.Kader,
Head Master,
Government High School, Amini,
Residing at Kallakakel, Amini,
Union Territory of Lakshadweep.

... Applicant.

(By Advocate Mr. O.V. Radhakrishnan)

v e r s u s

1. Administrator,
Union Territory of Lakshadweep,
Kavarati.
2. Director of Education,
Union Territory of Lakshadweep,
Kavarati.
3. Union of India,
represented by its Secretary to Government,
Ministry of Human Resources Development,
Department of Education, Curson Road,
New Delhi.
4. B. Nandi Mampoothiri,
Assistant Head Master,
Government High School, Chetlat Island,
Union Territory of Lakshadweep.

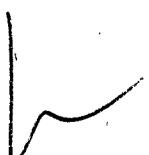
... Respondents.

(By Advocate Mr. P.R.R.Menon for R-1 and R-2 and C.Rajendran for R-3)

O R D E R
HON'BLE MR.K.V.SACHIDANANDAN, JUDICIAL MEMBER

The applicant entered into service as Trained Graduate Teacher (TGT for short) on 1.7.1974. He was promoted as Assistant Head Master on the recommendations of the Committee of Officers vide proceedings dated 17.3.1990 along with 9 others as per order dated 21.3.90 (A1). The applicant, who was at Sl.No.8, was posted at Government High School, Kadamat and he joined in that post on 26.3.1990. Subsequently, he was

transferred to the Government High School, Amini on 14.8.1995 and continued there till he was promoted to the post of Head Master (HM, for short) vide order dated 31.7.1997 (A/2) at the Govt. High School, Kiltan on adhoc basis for a period of six months. He was allowed to continue as Head Master till date without any formal order extending the period of promotion on the post of Head Master. The applicant states that the 4th respondent, who was appointed as Assistant Head Master as per order dated 2.11.2000 in place of one Shri PK Narayanan, Assistant Head Master, was allowed to continue as Head Master, Government High School, Chetlat on adhoc basis. It is averred in the O.A. that the 4th respondent is junior to the applicant on the post of Assistant Head Master as he has been promoted to the post of Assistant Head Master after more than ten years of the date of promotion of the applicant to the post of Assistant Head Master. The applicant possessed the qualification of B.A., B.Ed. at the time of selection and appointment as TGT, which is the prescribed qualification for appointment to the post of TGT, Assistant Head Master and Head Master. The 4th respondent is a B.Sc., B.Ed. holder and he does not possess any higher qualification. In partial modification of the Notification dated 9.12.1994 regarding the recruitment rules for the post of Head Master, Senior Basic School/Assistant AEO (Academic)/Asistant Head Master, in the High School under Education Department, the President has made certain amendments by issuing the Lakshadweep Administration Recruitment Rules, 1996, vide notification dated 25.1.96 (A4). Accordingly, the TGTs with five years regular service in the grade with post graduate qualification are eligible for promotion to the post of Assistant Head Master (AHM for short), High School.



According to the applicant, the above amended Rules, 1996, had not been given retrospective effect and this will apply to promotions to be made subsequent to 25.1.1996 i.e., the date of coming into force of the Amended Rules, 1996. The applicant having been promoted to the cadre of Assistant Head Master (AHM, for short) as early as in 21.3.1990 against a newly created post of AHM on the basis of the recommendations of the Committee of Officers, his promotion to the post of AHM is not liable to be recalled on the strength of A-4. The 4th respondent, who was promoted to the post of AHM as per A-3 order dated 2.11.2000 dehors A-4 Amendment Recruitment Rules, 1996, has no right or entitle to hold the post of AHM on the basis of A-3 order issued subsequent to A-4 amended Recruitment Rules, 1996. The 4th respondent has no better claim or suitability to be promoted to the post of HM, High School in preference to the applicant. The 2nd respondent issued an order dated 14.6.2001(A5) ordering promotion of certain persons, including the 4th respondent, to the post of HM, High School on adhoc basis. As per A-5, the appointments were purely on temporary and adhoc basis and do not confer any claim for regular appointment, seniority, confirmation etc. in the grade on the individuals promoted thereunder and they are likely to be reverted to their regular posts at any time without assigning any reasons. In A-5, nothing was stated about the applicant who has been holding the post of HM, Government High School, Amini against which the 4th respondent was given promotion and in case A-5 is allowed to be operated, that would result in the reversion of the applicant. The said reversion of the applicant is sought to be effected not for accommodating a person who has been regularly selected for

appointment as HM or for accommodating a regular incumbent to the post of HM, but is sought to be replaced by the 4th respondent, who is not even eligible for appointment to the post of AHM after the date of A-4 Amendment Rules, 1996. According to the applicant, order A-5 promoting the 4th respondent to the post of HM in the place of the applicant is patently illegal, arbitrary and against the provisions of the Constitution. Aggrieved by the said order the applicant has filed this O.A. seeking the following reliefs:

- i. To call for the records relating to Annexure A5 Order dated 14.6.2001 and to set aside the same to the extent it adversely affects the applicant;
- ii. to declare that the applicant is not liable to be replaced from the post of Head Master, Government high School, Amini by the 4th respondent or any other adhoc or temporary employee in the light of the ratio of the decision of the Hon'ble Supreme Court in Piara Singh's Case reported in (1992) 4 SCC 118.
- iii. to issue appropriate direction or order directing the respondents 1 and 2 to allow the applicant to continue in the post of Headmaster, Government High School, Amini and to consider his case for regularisation.
- iv. to grant such other reliefs which this Hon'ble Tribunal may deem fit proper and just in the circumstances of the case; and
- v. to award costs to the applicant.

2. The respondents 1 & 2 have filed a detailed reply statement and additional reply statement and the 3rd respondent has adopted the same as his reply. The 4th respondent has not filed any reply statement.

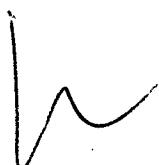
3. The respondents have contended that at the time when the department came into existence, there were only 4 posts of Headmaster, Senior Basic School and one post of Assistant Education Officer (A) which are the feeder posts of HM, High



School. The Recruitment Rule for the said post came into existence in the year 1982 and nine posts of Assistant HM, High School were created in the year 1988, and at that time, there was no Recruitment Rules for the said post of Asst.HM, High School. Under the said circumstances, to safeguard the interest of the Administration, it was decided to fill up the said posts from among the seniormost Trained Graduate Teachers and accordingly, nine of the senior most TGTs were appointed as Asst.HM, High School in 1990 purely on adhoc basis. The applicant was also given such adhoc posting. As Seniors to him, Sri Sayed Mohammed, Sri Nandi Nampoothiri (4th respondent in the O.A) and Sri K.Raveendranathan did not accept the adhoc promotion for certain reasons. The said order promoting the applicant along with 9 others has been produced as Annexure A-1 by the applicant. It was purely on adhoc basis. The combined Recruitment Rules for the post of Head Master, Senior Basic School/Asst.Education Officer (A) and Asst.Head Master were framed as per Notification F.No.18/30/89-Edn. dated 9.12.94 (Annexure R-1.) Annexure R-1 was amended in the year 1996 as per Notification dated 25.1.96 incorporating Post Graduation as a qualification for promotion. A copy of the said rule is Annexure R-2. Since nine posts of Asst.Head Master, High School were filled up only on adhoc basis due to the absence of Recruitment rules at that time, it was decided by the Department to fill up these vacancies on regular basis adhering to the Recruitment Rules and as per the said rules, year-wise vacancies were earmarked and post based roster was also prepared in terms of the O.M. dated 2.7.97. The DPC met on 23.9.2000 and suitable candidates were selected (R3). The name of the applicant did not appear in Annexure R-3 list as he was



not qualified and eligible to hold the post of Asst. Head Master, High School. Before the said DPC, the administration had appointed 9 Asst. Head Masters, High School and 4 Head Masters, Senior Basic School on adhoc basis as a stop gap arrangement. The said adhoc appointments continued for over a decade. The adhoc appointees were replaced by regular hands. Accordingly, the promotion to the posts of Asst. Head Master, High School/Head Master, Senior Basic School, Asst. Education Officer (A) were made as per order dated 2.11.2000. The persons who were holding the posts on adhoc basis and who were not selected as per Annexure R-3 were reverted as per Order dated 2.11.2000 (Annexure R-4). The persons who were appointed on regular basis as Asst. Head Master/Head Master/Asst. Education Officer were eligible for promotion to the next higher post. Accordingly, the department has given promotion to the seniormost persons who were working as Asst. Head Master/Head Master/Asst. Education Officer (A) as Head Master, High School on adhoc basis as per order dated 14.6.01.(A5) The applicant was reverted and was ordered to be posted as TGT Govt. High School, Kalpeni as per R-5. The persons selected by A-5 including the 4th respondent are qualified to hold the post of HM, Govt. High School, as they had been regularly promoted as Asst. Head Master, Govt. High School as per Annexure R-3. The applicant is yet to be promoted as AHM/HM SB Sr./Asst. Education Officer (A) and did not even come in the zone of consideration. The 4th respondent is senior to the applicant in the grade of TGT. His Sl.No. is 34 whereas the applicant is at Sl.No.50 in the seniority list of TGTs. Adhoc promotion granted to the applicant as AHM in 1990 was due to the fact that the 4th respondent has refused to accept the promotion on adhoc basis.



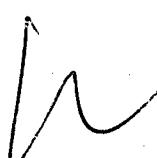
The 4th respondent was eligible and qualified for promotion on regular basis as per the Recruitment Rules for filling up of the vacancy, which existed prior to 1996 amendment. Annexure A5 and R-5 orders have been passed as a consequence to Annexure R-3 proceedings of the DPC which are not under challenge in the OA. The applicant is very well known that he has been reverted only as a consequence to Annexure A-3 order and these aspects have been concealed in the O.A. The applicant has been promoted only on adhoc basis which will not confer on him any legal right and therefore, provisions of Article 311 of the Constitution will not apply under any stretch of imagination and therefore, the respondents submitted that the O.A. is devoid of merit and deserves to be dismissed.

4. The applicant has filed a detailed rejoinder reiterating the contentions made in the O.A. and further submitting that the authority who signed in the written statement has no power to put the signature in the reply statement according to Rule 12(2) of the Central Administrative Tribunal (Procedure) Rules, 1987. As provided in order VI Rule 15 of the Code of Civil Procedure, the authorisation must be in writing which is not produced in the present case and, therefore, the reply statement cannot be considered. The averment in the reply statement that the applicant was given adhoc appointment as Asst.HM is opposed to the facts and stoutly denied. Annexure A-1 order has been passed on the basis of the recommendations of the Committee of the Officers and the applicant possessed the requisite qualification prescribed in the Rules and he was promoted against a permanent post carrying a definite rate of pay sanctioned without



prescribing any time limit. He continued in the post of Asst.HM for over seven years till he was promoted temporarily to the post of HM as per A-2 order dated 31.7.1997. The appointment of the applicant as Asst.HM should be deemed to be on regular basis notwithstanding the words 'adhoc promotion' appearing in A-1. The Recruitment Rules Annexure R-1 cannot have any retrospective operation and they came into force on the date of their publication in the official gazette. Annexure R-1 Rules regulate the recruitment to the post of HM, Sr.Basic School, Asst.Education Officer (Academic), Asst.HM, High School. It cannot be reviewed in the absence of any provision in R-1 in that behalf. Since the 4th respondent has refused to accept the promotion at appropriate time, he cannot claim promotion to the cadre of AHM.

5. The respondents have filed an additional reply statement to the rejoinder contending that the Sr.Administrative Officer who signed the reply statement, is very much competent to do so. The applicant was not qualified for the post and, therefore, the DPC did not consider his case for promotion . The adhoc appointment is to be made by promotion of the officers in the feeder grade, which may be done on the basis of seniority cum fitness basis. The seniority cum fitness is a matter to be decided by the Committee of Officers and therefore, the adhoc appointments are also to be considered by a Committee of officers. The applicant was not appointed on regular basis. A-1 is very clear that the appointment of the applicant was on adhoc basis. Since the seniors of the applicant were deferred from promotion, the applicant who was junior happened to be promoted



to the higher post. Therefore, the contention of the applicant that his appointment as Asst. Headmaster against a permanent post and he should be considered to be on regular basis is not sustainable. The posts were created in 1998 and there was no Recruitment Rules for the post at the time of posting the applicant and therefore, adhoc appointment was made as per guidelines. The applicant is not entitled to get promotion as Asst. Headmaster, High School, since he has no Post Graduate qualification and the DPC has rightly rejected his case. the applicant has no legal right to claim any promotion or other benefits.

6. We have heard Shri O.V. Radhakrishnan, learned counsel for the applicant and Shri P.R. Ramachandra Menon, learned counsel for R.1&2 and Shri C. Rajendran, learned SCGSC for R-3.

7. Before entering into the merits of the case, let us consider the submission made by the the applicant in regard to incompetency of the officer who signed the reply statement on behalf of the respondents, which according to him was not in conformity with the Rule 12(2) of the CAT Procedure Rules, 1987, nor it was in terms of the order VI of Rule 15 of the Code of Civil Procedure Code. The learned counsel for the applicant also invited our attention to a decision reported in Ram Rakha Vs. Union of India and another, 1988 (8) ATC 16 on the point in which it is held that:

"....The Officers arrayed as respondents should authorise some responsible officer of the Department concerned in writing to sign and verify the reply on their behalf and such authorisation should be filed along with the reply to indicate that the person filing



the reply has been duly authorized by the competent authority. In the absence of such authorisation in writing, the replies filed by any inferior authority should not be accepted...."

8. On a scrutiny of the reply statement, we find that the reply was signed by the Sr. Administrative Officer, who in the verification portion, averred that he has been duly authorized to submit the reply. Moreover, in the O.A., no other documents of the respondent-department pertaining to policy matter have been challenged, much less the DPC proceedings. Therefore, what the respondents have to do is only to enlighten this court with reference to the factual position of the case. If a policy document is challenged in the O.A., the competent authority may necessarily be asked to file a reply statement since the circumstances of issuing such document was within the knowledge of it. Since no such documents in this case are under challenge, there is no necessity of signing the reply statement either by the 1st respondent or the 2nd respondent themselves. Moreover, we want to make it clear that in the absence of any such eventualities, this Court is not justified in disposing of the matters on technical ground, therefore, we hold that the reply statement signed by the authority concerned will be sufficient to enlighten the Court on the point in dispute especially when there was an averment that he had signed the reply statement under instructions/authorisation. Therefore, we are not inclined to reject the reply statement filed by the respondents as contended by the applicant.

9. Now let us examine the merits of the case. In this O.A, the action on the part of the respondents in not retaining or promoting the applicant in the Head Master's post is under challenge. The contention of the applicant is that he while

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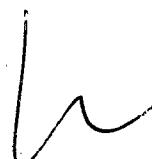
working as TGT, was promoted to the post of Assistant HM and thereafter, as Head Master on ad hoc basis and that the adhoc promotion as Assistant HM, in which he has been forced to work for a decade, should be treated as regular which according to him, will not constitute violation of any instructions or rules. It is also contended that in the absence of any Recruitment Rules, the promotion that has been granted to the applicant should have been treated only as regular and had it been really adhoc, it should have been restricted to one year only as per rules. It is further argued that when the 4th respondent already declined to accept the promotion and A-1 order was issued thereafter, he forfeits all his claim and therefore, he will not get any preferential treatment than that of the applicant. One Shri P.K. Narayanan who is similar to the applicant has been granted the benefit on the basis of Annexure R-1(2), which is a notification dated 9.12.94 regulating the method of recruitment for the posts of Headmaster, Senior Basic School/Asst.Education Officer (Academic) Asstt. Headmaster, High School in the Department of Education under the Lakshadweep Administration. The learned counsel took us through various aspects and submitted that the applicant is seeking the benefit mainly on the strength of a reported ruling of Hon'ble Supreme Court in State of Haryana vs. Piara Singh and Ors., AIR (1992) 4 SCC 118. On the other hand, it was argued on behalf of the 4th respondent that he has been promoted in place of the applicant on the basis of his seniority in TGTs cadre. He was shown at sl. No.34, whereas the applicant was placed at Sl. No.50 in the TGTs seniority list. When the department has decided to create a post of Asst. Headmaster, which was scrutinised by a Committee, the



4th respondent was not opted for that post at the relevant time and therefore, the applicant, who was junior to respondent No.4, has been promoted to the said post. Annexure A-1 order was passed in 1990 in which it was made clear that the promotions of the applicant and others were on ad hoc basis and that the applicant happened to continue on the said post for over a decade. Now he was ordered to be replaced by a regular hand after the assessment of DPC in compliance of the Recruitment Rules.

10. We have given anxious thought to the pleadings and the arguments advanced by both the parties.

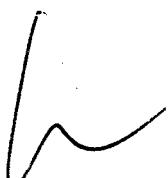
11. On going through the facts and circumstances of the case on hand, we find that this is a case where the applicant, who was not qualified as per the DPC proceedings, has been reverted to his earlier position. The said DPC proceedings are not under challenge in this O.A. Therefore, this cannot be said to be a wrong decision. On the other hand, this is a case where the promotion of the applicant along with others have been considered by a constituted DPC wherein they found that the applicant was not fit. The reversion or not permitting the applicant to continue in the post which he was holding, is based on the said DPC proceedings. The Hon'ble Supreme Court in catena of decisions held that the DPC is an expert body and the resultant assessment of the DPC can be challenged only on few grounds, which is not a subject matter of this O.A. The Apex Court also cautioned the Tribunal/Courts in assessing the DPC decisions since it will not come within the purview judicial review. Unless there is unfairness, illegality or



arbitrariness, such actions can not be interfered with. The celebrated decisions of the Hon'ble Supreme Court on this point are (i) Dalpat Abasaheb Solunke Vs. Dr. B.S.Mahajen etc. etc., AIR 1990 (SC) 434; (ii) State of Madhya Pradesh Vs. Shri Srikant Chaphekar, 1992 (5) SLR 635; (iii) Smt.Puneet Sardana Vs State of Haryana and others, 1996 (1) SLR 734; (iv) Durgadevi and another Vs. the State of Himachal Pradesh and Ors., AIR 1967 SC 2618 ; (v) Anil Katiyar(Mrs.) Vs.Union of India and others, 1997 (1) SLR 153; wherein it was held that it is not the function of the Court to sit on appeal over the decision of the Selection Committee and assess the relative merit of the candidates. Whether the candidate is fit for a particular post or not has to be decided by a departmentally constituted Selection Committee which is an expert body on the subject. The decision taken by such Committee can only be interfered with on limited grounds.

12. The question in this case is whether this Court can interfere with the selection made by the DPC, the expert body on the subject, or not. Since the DPC proceedings are not under challenge in this O.A, the presumption is that it is valid and binding on all the candidates. The Committee of officers who recommended the applicant for this ad hoc posting has no statutory powers to that of a duly constituted DPC which has found the applicant unfit. The DPC decision will have to prevail since a process of selection is involved.

13. The next argument of the learned counsel for the applicant is that the constitution of DPC/Selection was made after coming into force the amended Recruitment Rules,



according to which, the 4th respondent was even not eligible for selection as Headmaster. Annexure A/4 is issued in partial modification of earlier notification dated 9.12.1994 amending the qualification to that of Post Graduation for promotion of TGTs to higher post. It is argued that the 4th respondent is not having any additional qualification than that of the applicant. The learned counsel for the applicant has also quoted the following decisions in support of applicant's claim:

- (i) AIR 1981 SC 41, Baleshwar Dass and Ors. vs. State of U.P. and Others.
- (ii) AIR 1983 SC 852, Y.V.Rangaiah and Ors. vs. J.Sreenivasa Rao and Others.
- (iii) 1999 SCC (L&S) 1172, Union of India and Others vs. S.Subramaniam.

14. Since the decisions cited above by the learned counsel for the applicant deal with the challenge over the seniority list, filling up of vacancy prior to the amended rules and adhoc promotion on account of non-selection for regular promotion, those are not squarely applicable to the present case. Learned Counsel for the applicant has also quoted a decision reported in State of Uttar Pradesh and Ors. Vs. Sughar Singh, AIR 1974 SC 423, to canvas the position of arbitrariness. It was a case where out of about 200 officers, most of them who were juniors to the respondent had been retained and the respondent alone was reverted to a substantive



post of Head Constable without any administrative reasons. The said case is also not applicable to the case on hand. Even assuming that there is arbitrariness in the DPC proceedings, this Court cannot sit on judgements since the DPC proceedings and its decision has not been challenged and the Court has to go by pleadings.

15. We have perused the short title and commencement of the Rules, which states that : (i) these rules may be called the Lakshadweep Administration, Education Department (Headmaster, Senior Basic School Asstt. Education Officer (Academic), Asstt. Headmaster, High School) (Group 'B' Non gazetted) R/Rs.1994 and (ii) They shall come into force on the date of their publication in the official gazette." Further, the method of recruitment has been narrated as 'by promotion failing which by transfer on deputation.' With reference to promotion, in Col.12, it is prescribed as TGTs with 5 years regular service in the grade and regarding the period of deputation, it has been made clear in the Recruitment Rules that it will not be more than 3 years and the composition of the DPC also has been mentioned. In partial modification of the Notification dated

9.12.1994, a further notification dated 25.1.1996 was issued wherein the approved Recruitment Rules (Col.12) on the head 'Promotion' has been amended as 'Trained Graduate Teachers with 5 years regular service in the grade with Post Graduate qualification.

16. On going through the case file, we find that for promotion to higher post, the respondents have considered only

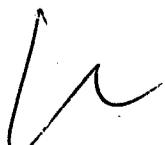


those persons who were appointed on regular basis as Assistant Headmaster, Headmaster, Assistant Education Officer for the next higher post. The applicant is seeking his selection against the 4th respondent on the ground that the 4th respondent refused to accept the promotion on ad hoc basis earlier and therefore, he is not eligible to be promoted in supersession of the applicant. It is an admitted fact that the 4th respondent is senior to the applicant in the grade of TGTs. The 4th respondent was at serial No.34 whereas the applicant stood at serial No.50. The fact that the respondent No.4 did not accept ad hoc promotion at an earlier occasion cannot make him ineligible for regular promotion by a duly constituted DPC. The Rules are very clear on this point that an employee will be at liberty to accept or refuse ad hoc promotion which will not be a disqualification for his/her selection on a regular post by a DPC. Furthermore, all the persons selected by Annexure A/5 including the 4th respondent are qualified for the post of Head Master, Government High School as they have been promoted as Assistant Head Master, Government High School, on regular basis as per Annexure R/3 whereas the applicant is yet to be promoted as Assistant Head Master/Head Master/Senior Basic School/Assistant Education Officer (A). The 4th respondent was eligible and qualified for promotion on regular basis as per the Recruitment Rules. "The DPC considered for filling up the vacancies on regular basis on year to year basis of the rosters". Hence, the aforesaid contention of the applicant is liable to be rejected.

17. It is an undisputed fact that the promotion to the post in question was granted to the applicant on ad hoc basis. It

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is also not in dispute that the respondent No.4 is senior to the applicant in the grade of TGTs and he was earlier promoted as Asst. HM on adhoc basis, which he refused. The DPC did not consider the applicant fit for promotion on regular basis despite the fact that he was occupying the said post on adhoc basis prior to the amendment of the Recruitment Rules. In this context, we want to make it clear that the regular selection has been made as per recommendations of the duly constituted DPC on the basis of the amended Recruitment Rules and not by an executive order. On perusal of the copy of the DPC proceedings, we find that the applicant was also considered in the ST quota wherein also, he was found unfit. It would be profitable to quote here the decision reported in (2001) 3 SCC 110, O.P.Lather and others Vs. Satish Kumar Kakkar and others, in which the Hon'ble Supreme Court held that when the promotion/eligibility/qualifications etc. are fixed by the competent authority, ordinarily Court shall not interfere with such matters. Admittedly, the Post Graduation qualification by way of amended Recruitment Rules has been fixed by a competent authority on the basis of the experts' opinion. The applicant was not eligible to be considered for higher post because the for the said post. The applicant did not possess the said qualification. Therefore, we are of the considered view that it is wise and safe for the Courts to leave such academic matters to the experts who are more familiar with those matters than the Court generally can be. In another case reported in (2003) 2 SCC 632, P.U.Joshi and others Vs. Accountant General, Ahmedabad and others, the Hon'ble Supreme Court observed that the determination of service conditions, alteration thereof by amending rules, constitution, classification or abolition of



posts etc. etc. are all pertain to executive policy and within the executive discretion of the State, subject to limitations and restrictions envisaged in the Constitution and held that the Tribunal should not interfere with the executive discretion of the jurisdiction of the administration. Admittedly, in the present case, the selection was made by a duly constituted DPC and the said decision of the DPC has not been challenged by the applicant in this O.A. As per the decisions of the Apex Court quoted supra, this Court is not justified in interfering with such selections. Further, even though the Apex Court had occasions to deprecate the practice of adhoc appointments, the Apex Court categorically held in the decision in State of Madhya Pradesh and Another Vs. Dharam Bir, (1998) 6 SCC 165, that the "experience could not be a substitute for the educational qualifications prescribed in statutory Recruitment Rules".

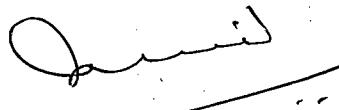
18. Taking all the aspects into consideration and the fact that the selection was made by a duly constituted DPC, which has not been challenged in the O.A, the applicant was not entitled to be considered for promotion to higher post at the relevant point of time as per the new Recruitment Rules. The adhoc service cannot be a substitute for the prescribed qualification in a selection process etc. We, therefore, hold that the applicant is not entitled to any relief as claimed in the O.A. We also make it clear that the decision of the Hon'ble Supreme Court in Piara Singh's case is not applicable to present case as discussed above.



19. In the result, we do not find any reason to set aside A-5 order. The O.A, being bereft of any merit, is dismissed. No costs.

(Dated, the 30th March, 2004)


K.V. SACHIDANANDAN
JUDICIAL MEMBER


T.N.T. NAYAR
ADMINISTRATIVE MEMBER

CVR.