

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

.....

O.A. No. 516 of 1994.

Monday this the 10th day of April 1995.

CORAM:

HON'BLE MR JUSTICE CHETTUR SANKARAN NAIR, VICE CHAIRMAN

HON'BLE MR PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

K.M. Sayed,
Lecturer in History,
holding current duties
of Principal
Jawaharlal Nehru College,
Kavaratti, Union Territory
of Lakshadweep.

.. Applicant

(By Advocate Shri P.K. Vijaya Mohanan)

Vs.

1. The Union of India, represented
by the Secretary to Government,
Ministry of Human Resources,
Development, Department of
Education, New Delhi.

2. The Union Public Service
Commission, Dholpur House,
Shajahan Road, New Delhi-110 011.
represented by the Secretary.

3. The Administrator,
Union Territory of Lakshadweep,
Kavarathy.

.. Respondents

(By Advocate Shri TPM Ibrahim Khan, SCGSC for R.1&2)

ORDER

CHETTUR SANKARAN NAIR(J), VICE CHAIRMAN

Applicant seeks a direction to respondents, to
consider him for promotion to the post of Principal
Jawaharlal Nehru College (Prayer-iii). He has also prayed
for a declaration that his ad hoc service as Lecturer
between 22.12.73 and 7.9.76, will count as qualifying
service (Prayer i) and to 'set aside' Clause II of Schedule

to the Recruitment Rules (Prayer iii). Prayer i and ii cannot be granted because, they are not supported by any reason or rule and it is for the authorities to decide what the qualification for a post should be. Applicant cannot challenge it because it suits him, not.

2. Coming to prayer-iii, we notice that it calls for consideration. Even A-2 order issued by the department states:

"....The Administratorhereby appoints Shri K.M. Sayed(applicant).....on ad hoc basis, on regular basis with effect from 8.9.76 in accordance with the recommendations of the U.P.S.C."

(Emphasis supplied)

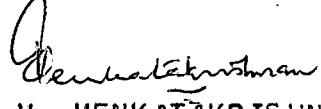
After 1984, even in accordance with the rules applicant became eligible for consideration. But, then consideration is denied on the ground that the vacancy is of the year 1983. It is folly to say so. It is an existing vacancy and needs be filled up. Quite apart from that, another vacancy has admittedly arisen in 1989 and for no ostensible reason, consideration to that vacancy can be denied to applicant.

3. The contentions of applicant have not been controverted by the respondents. They have not filed any reply statement and after a long wait we were constrained to strike off the defence of respondents, as otherwise there would be no means of proceeding with the case.

4. In the facts and circumstances, we direct respondents to consider the claim of applicant for any vacancy that arose after 1984. A final decision will be taken in the matter within three months of today.

5. Original Application is allowed as aforesaid.
Parties will suffer their costs.

Monday this the 10th day of April, 1995.


P.V. VENKATAKRISHNAN

ADMINISTRATIVE MEMBER


CHETTUR SANKARAN NAIR(J)
VICE CHAIRMAN

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List of Annexures

1. Annexure-A2: True copy of the order No.F.No.18/96/74-Edn.(1) dt.20.7.1977 issued by 3rd respondent.