

CENTRAL ADMINISTRATIVE TRIBUNAL

OA No. 516 of 2003

Friday, this the 11th day of February, 2005

CORAM

HON'BLE MR. K.V. SACHIDANANDAN, JUDICIAL MEMBER  
HON'BLE MR. H.P. DAS, ADMINISTRATIVE MEMBER

1. Mariyammabi,  
Molikkat House,  
Androth Island,  
UT of Lakshadweep. ....Applicant

[By Advocate M/s Sukumaran & Usha]

Versus

1. Union of India rep. by its  
Secretary to Government,  
Ministry of Human Resources Development,  
Department of Women and Child Development,  
Sastri Bhavan, New Delhi.

2. The Administrator,  
Union Territory of Lakshadweep.

3. The Chairman,  
Central Social Welfare Board,  
Samaj Kalyan Bhavan, New Delhi-16

4. The Director of Education,  
UT of Lakshadweep, Kavaratti. ....Respondents

[By Advocate Shri T.P.M. Ibrahim Khan, SCGSC (R1 & R3)]  
[By Advocate Shri P.R. Ramachandra Menon (R2 & R4)]

The application having been heard on 11-2-2005, the  
Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. K.V. SACHIDANANDAN, JUDICIAL MEMBER

The applicant in pursuance of a notification inviting  
applications for appointment to the post of Nursery Trained  
Teacher submitted an application on 27-3-2003 and she was  
shortlisted as per Annexure A3 dated 3-5-2003. The grievance  
of the applicant is that even though she was shortlisted in



Annexure A3, she was not called for the interview held on 9-5-2003. The contention of the applicant is that though the notification ~~prescribes~~ <sup>announced</sup> 23 vacancies, only 15 were shortlisted and therefore her chances were ~~so~~ bright which she could not ~~have~~ availed since she was not intimated about the interview. Aggrieved by the same, the applicant has filed this application seeking the following reliefs:-

- "a) to direct the 4th respondent to consider the applicant for appointment to the post of Nursery Trained Teacher pursuant to Annexure-A2 application confers her the benefit of age relaxation applicable to S.T candidates;
- b) Or in the alternative to call for the files leading to Annexures A1 and A3 and to set aside the same since the same are issued by the 4th respondent without jurisdiction and without any authority of law;
- c) to declare as null & void all steps so far taken by the 4th respondent for effecting appointment to the post of Nursery Trained Teachers in the various nursery schools in the U.T of Lakshadweep; and
- d) to declare that the 4th respondent have no jurisdiction to invite application or make selection or appointment for the post of Nursery Trained Teachers in various schools under U.T of Lakshadweep in the light of Annexure A-5 to A7."

2. Respondents 2 and 4 have filed a reply statement contending that as the applicant was already called for the interview the representations submitted thereafter stating that no intimation was received did not merit any consideration since it ~~was~~ <sup>had</sup> lapsed by that time. Since the selection has already been completed and appointments have already been made, which is not challenged in this application, the applicant is not entitled to be considered for the post of Nursery Trained Teacher. It is also contended that in Annexure R1 it is



stipulated that the controlling authority of the Administrative Department to whom the posts originally belong will fill up these posts by transfer and posting of necessary personnel.

3. Smt. Karthika representing M/s Sukumaran and Usha appeared for the applicant, Shri T.P.M.Ibrahim Khan, learned SCGSC appeared for respondents 1 and 3 and Shri P.R.Ramachandra Menon appeared for respondents 2 and 4.

4. Learned counsel had taken us to various pleadings, materials and evidences placed on record. Learned counsel for the applicant submitted that Annexure A3 was not addressed to the applicant but addressed to the Sub Divisional Officer, Andrott with instructions to get acknowledgment from the candidates/guardians to avoid complaints of non-receipt of communication.

5. We have gone through the pleadings and have given due consideration to the arguments advanced by the learned counsel on either side. On a specific query put to the learned counsel for respondents 2 and 4, it was submitted that there is no ~~denial of the pleading~~ in the reply statement as to whether Annexure A3 has been duly communicated by the Sub Divisional Officer, Andrott to the applicant. Respondents also were not able to produce any document to show that this communication was acknowledged by the applicant in any form. Therefore, we have to conclude ~~are of the view~~ that there is no communication at all to the applicant in any way calling for the interview <sup>on</sup> in the notified date and for that reason she was not able to attend the interview. In the circumstances, it is absolutely a default on



the part of the respondents in not intimating the date of interview to the applicant which has resulted in ~~the~~ situation that the applicant was not able to attend the interview.

6. Now the contention of the respondents is that the selection has already been completed and her appointment cannot be considered at this point of time. Respondents further submitted that the said selection was not challenged by the applicant and the interim order that has been sought for reservation of one post is also not granted by the Tribunal and in the circumstances at the present stage nothing can be done to grant any relief to the applicant.

7. Admittedly and borne out from the records, it is a clear case that the applicant was not able to attend the interview for no fault of her. It was solely because she was not intimated. The contention of the respondents' counsel that the applicant was 36 years of age and she is unemployed and she was specifically looking for an appointment to this post, it is an indication that there is no reason for ~~withholding the~~ <sup>voluntarily</sup> ~~withdrawal~~ ~~candidature of the applicant~~ from interview. Therefore, we are of the view that the fault is very much on the part of the respondents which has to be redressed. Learned counsel for the applicant submitted that an interview for the vacancies of Nursery Trained Teachers is scheduled to be held on 14-2-2005 and the applicant will be satisfied if a chance is given to her to appear for the interview and consider her <sup>for appointment</sup> ease, if she succeeds in it.



8. In the interest of justice, we direct the respondents to permit the applicant also to appear for the interview, if such an interview is scheduled to be held on 14-2-2005 or on any other deferred date, relating to the unfilled vacancies with reference to the earlier notification or fresh posts as the case may be and if succeeds <sup>she would</sup> ~~she~~ <sup>given</sup> ~~she~~ shall be considered for the post and appointment ~~given~~. The applicant's eligibility as on the date of shortlisting would hold ~~the criteria in~~ <sup>while</sup> permitting her to appear in <sup>such</sup> ~~the~~ interview.

9. The Original Application is allowed as above. In the circumstances, no order as to costs.

Friday, this the 11th day of February, 2005

H. P. Das

H.P. DAS  
ADMINISTRATIVE MEMBER



K.V. SACHIDANANDAN  
JUDICIAL MEMBER

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- b) Or in the alternative to call for the files leading to Annexures A1 and A3 and to set aside the same since the same are issued by the 4th respondent without jurisdiction and without any authority of law;
- c) to declare as null & void all steps so far taken by the 4th respondent for effecting appointment to the post of Nursery Trained Teachers in the various nursery schools in the U.T of Lakshadweep; and
- d) to declare that the 4th respondent have no jurisdiction to invite application or make selection or appointment for the post of Nursery Trained Teachers in various schools under U.T of Lakshadweep in the light of Annexure A-5 to A7."

2. Respondents 2 and 4 have filed a reply statement contending that as the applicant was already called for the interview the representations submitted thereafter stating that no intimation was received did not merit any consideration since it had lapsed by that time. Since the selection has already been completed and appointments have already been made which is not challenged in this application, the applicant is not entitled to be considered for the post of Nursery Trained Teacher. It is also contended that in Annexure RI it is

stipulated that the controlling authority of the Administrative Department to whom the posts originally belong will fill up these posts by transfer and posting of necessary personnel.

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respondents in not intimating the date of interview to the applicant which has resulted in the situation that the applicant was not able to attend the interview.

6. Now the contention of the respondents is that the selection has already been completed and her appointment cannot be considered at this point of time. Respondents further submitted that the said selection was not challenged by the applicant and the interim order that has been sought for reservation of one post is also not granted by the Tribunal and in the circumstances at the present stage nothing can be done to grant any relief to the applicant.

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8. In the interest of justice, we direct the respondents to permit the applicant also to appear for the interview, if such an interview is scheduled to be held on 14-2-2005 or on any other deferred date, relating to the unfilled vacancies with reference to the earlier notification or fresh posts as the case may be and if she succeeds she would be considered for the post and appointed. The applicant's eligibility as on the date of shortlisting would hold while permitting her to appear in such interview.

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