

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.521/2009

Thursday this, the 5th day of August, 2010

CORAM:

HON'BLE MR.JUSTICE K.THANKAPPAN, JUDICIAL MEMBER
HON'BLE MR.K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER

Naseemabi.P.K.

W/o.Ahamed.P.P.

Purakkad, Kadmat,
Lakshadweep.

..Applicant

By Advocate: Shri Ms. Jancy Alex

vs.

1. The Administrator,
Union Territory of Lakshadweep,
Kavaratti.

2. The Director,
Directorate of Education,
Kavaratti D 682555.

..Respondent

By Advocate: Si S.Radhakrishnan

The Application having been heard on 29.07.2010, the Tribunal on 5.8.10
delivered the following:-

ORDER

HON'BLE MR.JUSTICE K.THANKAPPAN, JUDICIAL MEMEBR:

The short question involved in this Original Application is that



whether inclusion of the name of the applicant in the wait list for selection conducted for filling up of the two posts of Trained Graduate Teacher(Mathematics) in pursuance to the notification dated 9th October,2007 confer any right on the applicant to claim subsequent vacancy or not.

2. The applicant applied for the post of Trained Graduate Teacher (Maths) pursuant to the notification No.18/43/2006-Edn/Estt.(Part) dated 9th October, 2007 issued by the Director of Education, Kavaratti. On completion of the selection process, the name of the applicant was put in the wait list as Sl.No.1. However, as per the notification there was only two vacancies to be filled up. For that, two candidates were already selected and appointed. The applicant claims that as there are other vacancies subsequently arisen, her name shall be considered for appointment to such vacancies. As the request was not granted, she filed the Original Application praying that this Tribunal may give a direction to the respondents to consider Annexures A4 and A6 representations of the applicant and further to direct that a vacancy shall be reserved for the applicant which had arisen after the posts were filled up. The Original



Application has been admitted by this Tribunal and notices ordered to the respondents. In pursuance to the receipt of the notice, the respondents have filed a reply statement in which the definite stand taken by the respondents 1 and 2 is that the selection board had selected two candidates and the two posts advertised were already filled up. There is no vacancy of Trained Graduate Teacher (Mathematics) which had arisen subsequent to the selection already made and even if any vacancy arises the applicant could not claim that post on the basis of inclusion of her name in the wait list. The respondents also relies on a judgment of the Hon'ble High Court of Kerala to substantiate their stand, reported in 2004(2) KLT 880 in Administrator, U.T. of Lakshadweep v. Musthak.

3. We have heard the learned counsel appearing for the applicant Ms.Jancy Alex and Mr.S.Radhakrishnan, counsel appearing for the respondents. The main contention of the learned counsel for the applicant is that since the name of the applicant has been included in the wait list she is entitled for a vacancy which arises even after the filling up of the vacancy notified as per the notification dated 9.10.2007. Further case of the applicant, as contended by



the counsel for the applicant is that there are vacancies occurred in the post of Trained Graduate Teacher(Maths.) due to retirement and promotion. If so, the applicant is entitled for appointment to any one of that post. For that Annexures A4 and A6 representations have been filed. The question to be decided is that whether the selection list published with two definite candidates for appointment and a list of candidates included in the wait list have any existence after the filling up of the notified vacancies. Admittedly, as per the notification only two posts of Trained Graduate Teacher(Maths.) has been advertised and that vacancies have been filled up. If so, unlike the panel or rank list prepared by the State Public Service Commission or other such methods, there is no span of life for a list prepared by the selection board so far as Union Territory of Lakshadweep is concerned. As and when the vacancies are filled up which are notified, the life span of that select list expires. Apart from that it has come out in evidence that the two vacancies pointed out by the applicant on the reason of retirement and promotion are not liable to be filled up from the wait list as these posts are not intended or included for filling up from the list prepared. Names included the wait list is only for the purpose of

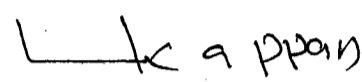


filling up in the event of non-joining of duties. If so, the claim of the applicant is not tenable and the applicant has no right to claim any benefit only on the ground that her name appears in the wait list. Apart from that it is the case of the respondents that the retirement vacancy pointed out by the applicant is due to voluntary retirement and that the respondents never thought of such a vacancy would arise so as to take anybody from the wait list. Apart from that as per the principles laid down by the Hon'ble High Court of Kerala in Musthak's case(cited supra) where the High Court categorically held that "the list will be applicable only for the vacancies notified, for which the recruitment process commenced. Operation of a select list prepared, after verifying the number of vacancies, to fill up more vacancies than notified will offend the rights of others under Art.16 of the Constitution. In other words it will violate the equality clause enshrined in the Constitution. More vacancies than that notified cannot be filled up, enforcing the list so prepared, as it will offend the rights of others under Arts.14 and 16 of the Constitution. The list prepared cannot be made operative for the vacancies that had arisen subsequently."

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4. On an overall consideration of all the facts and circumstances of the case, we feel that the application is liable to be dismissed as meritless. Accordingly the O.A. stands dismissed. No order as to costs.


(K.GEORGE JOSEPH)
MEMBER(A)


(JUSTICE K.THANKAPPAN)
MEMBER(J)

/njj/