

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 536
T. A. No. 1990

DATE OF DECISION 17-4-92

P.P. Pathumabi Applicant (s)

Mr. V. Bhaskara Menon Advocate for the Applicant (s)

Versus

The Union of India represented by Secretary, Ministry of Home Affairs, New Delhi and others Respondent (s)

Mr. N. N. Sugunapalan, SCGSC Advocate for the Respondent (s) 1-3
Mr. P.K. Madhusoodhanan for R-5

CORAM :

The Hon'ble Mr. N. V. KRISHNAN, ADMINISTRATIVE MEMBER

The Hon'ble Mr. N. DHARMADAN, JUDICIAL MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement? Y
2. To be referred to the Reporter or not? no
3. Whether their Lordships wish to see the fair copy of the Judgement? no
4. To be circulated to all Benches of the Tribunal? no

JUDGEMENT

MR. N. DHARMADAN, JUDICIAL MEMBER

The applicant was appointed as Multipurpose Health Worker (MPHW (ANM)) and she joined duty on 8.10.79. The post of MPHW is equivalent to ANM and these posts are interchangeable. Annexure A-1 is the recruitment rules relating to the recruitment to Group-C post of MPHW (ANM) in the Medical and Public Health Departments of the Lakshadweep Administration. According to the applicant she satisfies educational qualification, and as prescribed in the recruitment rule for selection as Lady Health Visitor.

2. By Annexure A-2 notification dated 26.11.88, two posts of Lady Health Visitor in the scale of Rs. 1200-2040 were

created. This is a selection post and the method/procedure for promotion is as follows:

"Promotion from the post of ANM with a minimum of three years regular service in the grade failing which by promotion from the post of Maternity Asstt./MPHW(F) with a minimum 5 years regular service in the grade and possessing educational qualifications prescribed in col.8."

Since the applicant was made to believe at the time of appointment that the post of MPHW was equivalent to ANM and she was recruited as per Annexure A-1 recruitment rules, she is entitled to be promoted to the post of Lady Health Visitor. But the first respondent issued instructions Annexure A-4 revising the pay scales to ANMs namely 950-1500 and 950-1400. Though the applicant submitted representations no decision has been taken. According to the applicant, this revision of pay was made to make it appear that the post of MPHW(ANM) and Maternity Assistants are not equivalent so that Maternity Assistants can be preferred for promotion to the post of Lady Health Visitor. The applicant further submitted that Annexure A-2 recruitment rules specifies a new post of MPHW(F) and this post has been included in the feeder category. It is contended that the specific inclusion of the category of 'Female' against the post of MPHW is deliberate and intended to bring in Maternity Assistants within the feeder category.

3. The Lakshadweep Administration convened DPC meeting on 10.7.89 and promoted the respondents 4 & 5 to the post of Lady Health Visitor as per Annexure A-11 proceedings Director of Medical & Health Services. The applicant who is aggrieved by the selection filed this application

challenging the Annexure A-11 proceedings. He prays for the following reliefs:

- "a) to issue necessary direction order quashing Annexure A10 and A-11
- b) to declare that the post of MPHW(ANM) in which applicant was appointed in a superior post so as to be promoted to the category of Lady Health Worker.
- c) to issue an order or direction prohibiting the 2nd respondent from filling up the post of Auxiliary Nurses and Lady Health Visitors post by any one who is not possessed of training in Auxiliary Nurses Course for 2 years.
- d) to declare that the applicant is entitled for the revised scale of pay sanctioned as per Annexure A-4 from the date of implementation of Annexure A-4 and all attended benefits...."

4. The respondents 1 to 3 stated that the applicant was appointed as MPHW in 1979 and the post of MPHW is not equivalent ANM. The recruitment rules of 1979 were superseded in 1985 and as per the new rules, the qualification required for the post of ANM was two years training/MPHW training for 2 years or 18 months. Later two posts of Lady Health Visitors were created as per proceedings dated 26.11.88 and the revised recruitment rules do not stipulate that MPHW who has undergone ANM training will be given preference in the matter of promotion.

5. We have heard the learned counsel for both parties and perused the documents. ~~hence~~ Identical issue was considered by us in O.A. 646/90 and we have pronounced our decision on 10.4.92. Hence, there is no need to go into the rival contentions raised in this application but to follow the dictum laid down by us in that case and dispose of the application with similar directions/observations.

6. Hence, we follow the judgment in O.A. 646/90 and declare that the post of MPHW(ANM) in which the applicant is working

is equivalent to the post of ANM and therefore the applicant is entitled to be considered in preference to the respondents 4 & 5 for the purpose of promotion to the category of Lady Health Visitor. In this view of the matter, we quash Annexures A-10 and A-11 and direct the respondents to consider the promotion to the post of Lady Health Visitor taking into consideration the observations in this judgment. This shall be done within a period of three months from the date of receipt of a copy of this judgment.

7. The application is allowed as indicated above.
8. There will be no order as to costs.

N. Dharmadan
(N. Dharmadan)
Judicial Member

27.4.92
27.4.92

N. V. Krishnan
(N. V. Krishnan)
Administrative Member

kmn

27-4-92