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CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.546/2008

Thursday this, the 23rd day of September, 2010

CORAM:

HON'BLE MR.JUSTICE K.THANKAPPAN, MEMBER(J)
HON'BLE MR.K.GEORGE JOSEPH, MEMBER(A)

Jaleel C.N.,
aged 42 years,
S/o Kasmi Koya C.P.,
Cheriyannallal House,
Kalpeni Island,
U.T. of Lakshadweep.

.. Applicant

By Advocate: Sri P.K.Ibrahim

vs.

1. The Administrator, Union Territory of Lakshadweep,
Kavaratti.
2. The Executive Engineer, Department of Electricity, Kavaratti.
3. Shri Musthafa M.V., Mathil Valiyammada House, Kalpeni
Island, Union Territory of Lakshadweep.
4. Shri Ahmad Koya P.P., Puthiya Pura House, Bithra Island,
Union Territory of Lakshadweep.
5. Shri Sayed Mohammed Muhsin A., Azhikakam House,
Androth Island, Union Territory of Lakshadweep.
6. Shri Badarudheen A.P., Aminapura House, Amini Island,
Union Territory of Lakshadweep.
7. Sri Sajid Khan M.G., Mamorunedgothi, Minicoy Island,
Union Territory of Lakshadweep.
8. Thajul Mullook B., Chethlath Island, Union Territory of

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Lakshadweep.

.. Respondents

By Advocate: Mr.S.Radhakrishnan

The Application having been heard on 20.09.10, the Tribunal on 23.09.10 delivered the following:-

ORDER

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

The applicant, an Engineering Graduate from Lakshadweep has filed this Original Application, aggrieved by the non-selection of him for the post of Junior Engineer (Electrical).The applicant prayed for a direction to the respondents to reserve one seat for physically impaired persons in the posts already notified as per the notification dated 16.5.2008 and also prayed for to quash Annexure A9 select list.

2. The facts of the case are that by the notification dated 16.5.2008,the Lakshadweep Administration, the respondents, notified applications for 6 posts of Junior Engineer(Electrical),3 regular and 3 temporary. The educational qualification fixed as per the above notification are that a Degree in Electrical Engineering of a recognized University or Diploma in Electrical Engineering of a recognized institution with 2 years Experience in any one of the following field (i) Running and



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maintenance of Diesel Generating etc,(ii) Generation, Transmission and distribution of electricity and (iii) internal electrification of building. The applicant claims that he belongs to the category of physically handicapped candidates and he is a Graduate, but when the selection has been made as per the select list dated 3.9.2008 the name of the applicant has not been included in the list. Under the above circumstances, the applicant filed this Original Application with the prayers as mentioned above.

3. The O.A. has been admitted by this Tribunal and notice has been ordered to the respondents. In pursuance to the notice ordered, a reply statement has been filed on behalf of the respondents. In the reply statement it is stated that Junior Engineer in the Lakshadweep Administration is a Group C post and the sanctioned strength of Junior Engineer in the Group C post is 38, out of which the Administration has already appointed 2 handicapped persons and as per the recruitment rules, the educational qualification for appointment to the post is Degree in Engineering or Diploma with 2 years experience in any one of the field mentioned in the notification. It is further stated that as per guidelines issued by the



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Administration, a copy of which is produced by the applicant himself as Annexure A8, the procedure to be followed in selecting the candidates has been prescribed by awarding 85 marks for essential qualification and 15 marks for higher qualification or experience other than the essential qualification. When the selection is made the applicant is not coming in the zone of selection though he is a Graduate. Hence the non-selection of the applicant is in accordance with the notification as well as the guidelines prescribed by the Administration. Further it is stated in the reply statement the question of reservation has been already taken into consideration by the Department and 2 posts were already reserved for the category out of which one Aboobacker and one Beefathummabi have been appointed under this category. It is the further case set out in the reply statement that as per the total posts existed in the Department is 38, only 1 post has to be reserved for physically handicapped. However by the grace of the Department 2 persons have been already appointed who are physically handicapped. If so, the non-reservation of any candidate from the physically handicapped quota as per the Annexure A1 notification is not a ground for interference in the matter by this Tribunal. On



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receipt of the reply statement the applicant has filed a rejoinder taking the stand that the appointment of Smt. A.K.Beefathummabi named in Annexure R1 was not in a reserved post as she was appointed as per Annexure A10 in the general quota. Hence the stand taken in the reply statement is not correct regarding the reservation of the post. On receipt of the rejoinder an additional reply statement has been also filed for and on behalf of the respondents. In the additional reply statement it is stated that Smt. A.K.Beefathummabi had been appointed though on a general notification but on giving a relaxation of standard and relaxation of age considering the fact that she is a physically handicapped person. If so, the stand taken in the reply statement that the appointment given to Smt.Beefathummabi is within the quota prescribed for the physically handicapped, is correct. Hence the selection now made is in accordance with the recruitment rules and also on the basis of the qualifications issued. Further in the additional reply statement it is stated that as per Annexure A8 guidelines the applicant has got only the marks for essential qualification, whereas the selected candidates have got more marks as they are having experience and additional qualifications as prescribed in



Annexure A8 guidelines.

4. We have heard the counsel appearing for the applicant Mr.P.K.Ibrahim and also Mr.S.Radhakrishnan appearing for the respondents. The main contentions of the counsel appearing for the applicant are that as per the notification dated 16.5.2008 6 posts were notified but no post is reserved for physically handicapped candidates. Since the total number of posts in the Department is 38, 2 vacancies should have been reserved for physically handicapped. Hence the respondents have to be directed to reserve posts for physically handicapped candidates as per the provisions of Persons with Difficulties(Equal Opportunities, Protection of Rights and Full Participation)Act,1995.The stand taken in the reply statement that Smt. Beefathummabi was appointed in the physically handicapped quota is not correct as evidenced from Annexure A10 notification which would show that the said Smt.Beefathummabi was appointed on a general notification as a general candidate. Hence 2 posts should have been reserved for physically handicapped candidates. The second contention of the applicant is that since Annexure A8 guidelines for selection prescribe that 85 marks shall be given for



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essential qualification and 15 marks will be given for additional or higher qualifications and as the applicant being a Graduate he should be given 15 marks as additional for his additional qualification of Graduation comparing with that of Diploma holders who are treated at par with that of the Graduates. Hence the selection now made by the respondents is incorrect. The further contention we have considered is that whether the provisions of 1995 Act has been violated by the respondents or not. The counsel submits that since Smt.Beefathummabi has been appointed on a general notification her appointment cannot be considered for physically handicapped persons. This contention was answered by the counsel appearing for the respondents relying on the reply statement and further contends that only because of the grace of the Department 2 candidates were appointed who are physically handicapped persons in the cadre of Junior Engineer and as per the provisions of the 1995 Act only the 33rd post, 66th post and 99th post out of 100 vacancies can only be reserved for the physically handicapped as the percentage prescribed for the physically handicapped being 3. However the Department has now appointed 2 persons who are physically handicapped namely Aboobacker



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and Beefathummabi. As per Annexure A8 guidelines when selection is made, 85 marks shall be given for essential qualification and 15 marks shall be given for additional or higher qualifications. It means that the essential qualification is the Degree or Diploma and the candidates now selected are having the essential as well additional qualifications or higher qualifications than the applicant. The further stand of the counsel for the respondents is that once essential qualification is fixed as Degree or Diploma, these two qualifications are on the same footing and there is no difference between Degree or Diploma as far as the essential qualification. Hence the stand taken by the applicant that he is entitled for 15 marks for having Degree in Engineering, is not sustainable.

5. On considering the contentions of the counsel appearing for the applicant, we are of the view that the questions now raised have to be considered in accordance with the notification as well the provisions of the 1995 Act. As per Annexure A1 notification 6 posts were notified out of which 3 are permanent and 3 are temporary and as per this notification, there is no vacancy reserved for physically handicapped. As per the rules prescribing reservation for physically handicapped, 3% of the




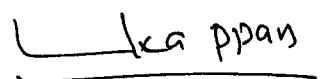
total vacancies should have been reserved. We have noted that the total number of sanctioned strength existed in the Department is only 38, out of which one post can be reserved for physically handicapped candidates. In the case in hand it is admitted fact before us that one Aboobacker has been already appointed as physically handicapped candidate. Though the respondents have stated that one Beefathummabi was also appointed in the physically handicapped quota, we not considering that appointment could be taken as a reserved post for the physically handicapped as Annexure A10 notification is only for general candidates. However the Department has got a stand that she was appointed on giving relaxation in her age. We are not considering whether that is on the basis of reservation of 3% which is meant for physically handicapped or not because as per the existing rules only 3% of the total vacancies can be reserved for physically handicapped for which one candidate has already been appointed out of 38 posts. If so, the contention of the applicant has to be rejected on this aspect. Secondly, we are of the view that as per Annexure A8, 85 marks has to be given for essential qualification and 15 marks has to be given for additional or higher qualifications, which means that if anybody



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is having additional or higher qualification than that of the essential qualification, they may get 15 marks more. But the applicant is only a Graduate, which means that he is only having essential qualification. The further question to be considered is that whether the Graduation or Diploma have to be treated as equal qualification for appointment or not. We are of the view that as per the recruitment rules the Department is empowered to prescribe the qualification for appointment to any post and as per the recruitment rules applicable to the post, both Degree and Diploma with experience are prescribed as essential qualification and it is treated as one and the same qualification and there cannot be any difference between a Degree or a Diploma as far as the post is concerned. In short all the questions now raised by the applicant are untenable and the O.A. fails. Accordingly it is dismissed with no order as to costs.


(K. GEORGE JOSEPH)
MEMBER (A)


(JUSTICE K. THANKAPPAN)
MEMBER (J)

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