

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A No. 550/2010

Tuesday, this 17th day of January, 2012.

CORAM

HON'BLE Dr K.B.S.RAJAN, JUDICIAL MEMBER

K.I.Muthukoya, S/o Attakoya,
Trained Grauate Teacher(Arabic),
(Associate NCC Officer),
Dr.KMK Government Senior Secondary School,
Kalpeni.Applicant

(By Advocate Mr P.V.Mohanam)

v.

1. The Administrator,
Union Territory of Lakshadweep,
Kavarathy.,
2. The Commanding Officer,
7, Kerala Naval Unit, NCC, Ernakulam.
3. The Director of Education,
Education Department,
Kavarathy, UT of Lakshadweep.
4. Shri M.P.Bismilla Khan,
TGT Arabic, Dr.KMK
Government Senior Secondary School,
Kalpeni.Respondents

(By Advocate Mr S Radhakrishnan)

This application having been finally heard on 13/1/2012, the Tribunal on
17.01.2012 delivered the following:

ORDER

HON'BLE Dr K.B.S.RAJAN, JUDICIAL MEMBER

 The applicant has been working as Trained Graduate Teacher at

Dr.KKMK Government Senior Secondary School, Kalpeni. In addition to his academic functions, he is a trained Associate NCC officer and had been imparting NCC training to the students in the school. By Annexure A-1 order dated 30.3.2010, the applicant stands transferred to Senior Basic School, Kiltan, a school which does not have any NCC Unit. The applicant filed Annexure A-2 representation requesting the Director of Education to transfer him to Kavaratti or to Minicoy Islands where vacancies are available and he would impart NCC training as well. The applicant was however, relieved pending his representation on 31.3.2010. The applicant has therefore, filed this O.A seeking the following relief:

- (a) To call for the records leading to Annexure A-1 and set aside the same in so far as it transfers the applicant from Dr.KKMK Government Senior Secondary School, Kalpeni to SBS Kilthan.
- (b) To direct the respondents to retain the applicant as Trained Graduate Teacher Arabic/Associate NCC Officer at Dr.KKMK Government Senior Secondary School, Kalpeni.
- © To direct the respondents to consider Annexure A-2 representation and retained the applicant at Dr.KKMK Government Senior Secondary School, Kalpeni.

2. Respondents have contested the O.A. According to them, the applicant has worked as TGT (Arabic) at Kalpeni for the last 10 years since 2000. As such, his movement from Kalpeni is inevitable under the guidelines. The applicant was to be moved to Kiltan as another teacher belonging to Kalpeni working at Kiltan for a substantial period sought for the transfer. In so far as imparting of NCC training at Kalpeni, the



respondents have made certain alternate arrangements by posting a person having NCC training. Annexure R1(b) refers.

3. Applicant has filed his rejoinder, in which he has stated that the NCC Directorate repeatedly directed the Lakshadweep Administration not to transfer ANO without consultation of NCC authorities. It was further directed even after 10 years ANO can be transferred out only to schools having NCC unit. Thus, the applicant having NCC training has been posted to Kiltan where there is no NCC unit. NCC is an integral part of education.
4. In their additional reply the respondents have refuted the contentions of the applicant.
5. On 25.8.2011, this Tribunal has passed inter-alia the following order:

"Counsel for the applicant submits that it would serve the best interest of both the applicant as well as the respondents if his transfer be considered to Minicoy as the same would serve the public interest of posting a NCC trained teacher against a vacant post at Minicoy and the department can achieve the aim of displacing the applicant after completion of ten years of service at Kalpeni.

The suggestion that has come from the counsel for the applicant appears more reasonable and logical and in my considered view the same have to be considered by the respondents and feasibility thereof may be intimated to this Tribunal on the next date of hearing. Accordingly, the 3rd respondent is directed to consider the above suggestion and intimate the feasibility of accommodating the applicant at Minicoy where there is a NCC unit. List on 29.9.2011."



6. Counsel for the respondents submitted that a statement in pursuance of the aforesaid order is at para 2 reads as under:

"It is submitted that as per the policy of the department of Education, circulated by F.No.18/8/2002-Edn dated 23.7.2002 the normal period of posting at Kiltan Island is two years. It is also submitted that altogether there are 7 NCC units functioning in different schools under the Lakshdweep Administration. One senior division NCC unit is functioning at JNSSS, Kadmath and 6 junior division NCC unit is functioning at GSSS, Kavaratti, Amini, Minicoy, Kalpeni, Agatti and GHS, Androth. It is submitted that Shri Hassan Koya, PGT in Physics is now holding the post of Commissioned Associate NCC Officer in the NCC Wing of GSSS, Minicoy. Hence, it is not possible to accommodate Shri K.I.Muthukoya to the said post as suggested by the counsel for the applicant. Quite apart from that the department is not in a position to transfer Shri Hassan Koya from Minicoy as he is the post graduate teacher in Physics for the plus one and plus two classes at Minicoy. Since Shri K.I.Kuthukoya is a trained graduate teacher(Arabic), he cannot be substituted in the place of Shri Hassan Koya, PGT Physics at Minicoy Island."

7. Counsel for the applicant argued that since the arrangement made in Dr.KKMK Government Senior Secondary School, Kalpeni is on a temporary measure until further arrangements are made, it would be in the interest of justice if the case of the applicant is considered now and if the applicant is posted to Kalpeni. By this time the applicant has completed around 20 months at Kiltan.

8. Counsel for the respondents submitted that as stated in the counsel statement a part of which was extracted above, the applicant cannot be accommodated at Kalpeni.

A handwritten signature consisting of a stylized 'K' and a checkmark-like flourish.

9. Arguments were heard and documents perused.

10. The applicant is an NCC trainee and wherever NCC wing is functional and he imparts training to the students, he must be getting certain allowances. Such allowances may not be permissible in a school where there is no NCC wing. Viewed from this point, perhaps, there has been some dent in the emoluments drawn by the applicant. But the question for consideration is whether the respondents have to necessarily employ the applicant only in those institutions where NCC unit functions. In other words, by not posting the applicant to such institutions with NCC units, whether any of the vested rights of the applicant are hampered. The rules do not provide for a compulsory posting of the applicant only to those places where there is NCC units. If the applicant is posted as such, whereby he could impart training, he becomes entitled to allowances attached to such training in NCC. Thus, *prima facie*, the applicant does not have any case.

11. The next question is whether the respondents are thoroughly right in refusing to accept the request of the applicant for his posting at Kalpeni where the arrangement now made vide Annexure R1(b) is only a stop gap arrangement. NCC training is one such faculty which inculcates in the students strict discipline at a tender age to make them a better civilized citizen. It facilitates the students in acquiring sufficient knowledge in the military strategy. Training to teachers to impart NCC training, it is understood, is also usually rigid and the reward payable to the NCC

trained teachers is by way of certain allowances when such teachers impart NCC training to the students. However, there is no legal obligation for the employer to appoint such NCC trained teachers, only in those institutions where NCC units functions.

12. In view of the above legal position that there is no vested right of the applicant that is hampered coupled with the fact that there is no legal obligation with the respondents to accommodate the applicant only in NCC units, the O.A has to be only dismissed. The respondents, however, are not precluded from considering the request of the applicant for posting him at Kalpeni in view of the fact that even according to them, the present arrangement is only temporary "till further arrangements are made". If the further arrangement is made which may render a permanent solution and if in that process, the applicant could also be benefited the case of the applicant may also be considered along with any other case. This part of the order is only a suggestion and not a direction.

13. With the above observation, the O.A dismissed.

14. No costs.



Dr K.B.S.RAJAN
JUDICIAL MEMBER