

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A.No.555/02

Monday this the 8th day of December 2003

C O R A M :

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

K.T.P.Narayanan Namboodiri  
Teacher, Mahima,  
Illa Moola,  
P.O.Mattannur, Kannur.  
Language Teacher (Hindi)  
Government High School,  
Kiltan.

Applicant

[By Advocate Mr.Shaji P Abraham]

Versus

1. The Secretary to the Govt. of India  
Ministry of Human Resource Development,  
(Department of Education),  
New Delhi.
2. The Director of Education,  
Administration of the Union  
Territory of Lakshadweep,  
(Department of Education)  
Kavaratti.
3. The Administrator,  
Union Territory of Lakshadweep,  
Kavaratti.
4. Headmaster,  
Government High School,  
Amini.

Respondents

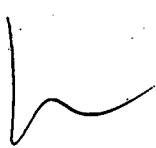
[By Advocate Mr.C.Rajendran, SCGSC (R-1)  
& Mr.S.Radhakrishnan, (R2-4)]

This application having been heard on 8th December 2003  
the Tribunal on the same day delivered the following:

O R D E R

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

The applicant was Matric Trained Teacher (Grade-II) Hindi,  
under the Education Department, Union Territory of Lakshadweep  
working from 1963 onwards was constrained to be absent from  
duty with his father's death and thereafter his mental illness.



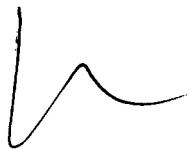
His absence of duty has not been regularised and aggrieved by the said inaction on the part of the respondents he seeks following reliefs :

1. to issue appropriate order quashing and setting aside Annexure A-4 order and also directing the respondents to regularise the leave of absence of the applicant on medical grounds from 22.9.1978 to 24.8.1994 and also from 9.9.1995 to 27.4.2001.
2. declare that the applicant is entitled to get his period of absence from 22.9.1978 to 24.8.1994 and also from 9.9.1995 till his date of retirement on superannuation regularised as extra ordinary leave on medical ground and also declare that the said period of absence will be treated as eligible service for fixing the pension and other retiral benefits payable to the applicant.

2. Respondents 2-4 have filed a reply statement stating that proper certificates were not produced and therefore his service cannot be regularised. They also rely on an order of the 1st respondent dated 25.2.2002. The operative portion is reproduced below :

Further in your letter dated 11.7.2001 referred to above, it has been mentioned that Sh.Namoodiri was referred to the District Medical Officer, Kannur on 22.3.2001. It has also been stated that the Medical Board, District Kannur in its sitting held on 28.4.2001 examined Sh.Namoodiri and certified that he is suffering from "sequels due to chronic schizophrenia" and recommended that he is not fit to hold official responsibilities due to residual personality damage. In view of this, it may kindly be intimated whether Sh.Namoodiri has been invalidated from service with effect from 28.4.2001 in view of the opinion of the Medical Board, District Hospital, Kannur dated 28.4.2001.

3. In furtherance to this order Annexure A-4 impugned order has been passed by the Lakshadweep Administration contending that applicant had been declared invalid for Government service under Lakshadweep Administration with effect from 28.4.2001 the date of proceedings for the Medical Board, District Hospital, Kannur.



4. When the case came up for hearing our attention is brought to F.R.18 which reads "Unless the President, in view of the exceptional circumstances of the case otherwise determines, no Government servant shall be granted leave of any kind for a continuous period exceeding five years". Learned counsel for the applicant submitted that he had not made any appeal or any representation against the impugned order Annexure A-4. Considering the rule position we are of the view that any kind of leave that has been granted for more than five years is within the domain of the executive and the applicant had not exhausted the remedy available to him. At this juncture the applicant submitted that he wishes to make a detailed comprehensive representation before the appropriate authority and O.A. may be disposed of accordingly. The respondents also submitted that he has no objection for the same.

5. In the interests of justice, we are of the view that such a course of action would be necessary and therefore the applicant is directed to make a detailed comprehensive representation before the appropriate authority within ten days and on receipt of such representation the appropriate authority shall consider the same within two months thereafter. We also make it clear that any delay that has been caused in making such representation/appeal may be condoned. With the above observation the O.A. is disposed of as closed. No costs.

(Dated the 8th day of December 2003)

H.P.DAS

ADMINISTRATIVE MEMBER

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K.V.SACHIDANANDAN  
JUDICIAL MEMBER