

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO. 561/2009

Dated this the 15th day of March, 2011

C O R A M

**HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER
HON'BLE Dr. K.B. SURESH, JUDICIAL MEMBER**

A. Thajudeen, S/o. Kamarudeen Sahib
Ashakkada House, P.O. Agatti
Union Territory of Lakshadweep.

..... Applicant

(By Advocate Mr. P.K. Ibrahim)

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Vs

1 The Administrator
 Union Territory of Lakshadweep
 Kavaratti.

2 The Director
 Medical and Health Service
 Administration of Lakshadweep
 Kavaratti.

3 The Senior Divisional Personnel Officer
 Southern Railway, Palakkad Division
 Palakkad.

..... Respondents

(By Advocate Mr. S. Radhakrishnan)

The Application having been heard on 11.2.2011, the Tribunal
on 15.03.2011 delivered the following:

ORDER

HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

The applicant is an aspirant for appointment to the post of Pharmacist under the Department of Medical and Health Services, UT of Lakshadweep, notified as per Employment notice dated 28.5.2009.

2 The facts in brief are that the 2nd respondent invited applications to fill up three post of Pharmacists in the Department of Medical and Health Services, in the Union Territory of Lakshadweep. The qualification prescribed as per the recruitment rules notified is pass in SSLC or equivalent with two years Diploma in Pharmacy, within the age limit of 18-25 (A-1). The selection is required to be made purely on the basis of educational qualifications and experience. A recruitment committee is to be constituted to evolve criterion for award of marks with the approval of the 2nd respondent. The 2nd respondent notified the Recruitment rules dated 18.6.2001 (A-3). The applicant applied (A-4). The applicant worked in various organisations and from 11.8.08 onwards, he is working as Pharmacist on contract basis at Community Health Centre, Agatti. On enquiry, he came to know that no committee was constituted for recruitment to the post of Pharmacist or any criteria for award of marks was evolved before notifying the post and as such the question of obtaining prior approval of the 2nd respondent did not arise before notifying the post. The selection and appointment in violation of the directions contained in Annexure A-2 is bad, illegal and liable to be quashed. Hence, he filed this O.A for a direction to make the recruitment as per the Annexure A-2 by constituting recruitment committee and forming criteria of selection prior to the notification and contending that

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the selection process now initiated is bad, illegal and liable to be quashed.

3 The respondents in the reply statement admitted that the criteria for selection as prescribed by the competent authority were in force on the date of issue of Annexure A-1 and a Recruitment Committee was also constituted. Annexure A-2 is a guideline for the Selection Committee which has nothing to do with the notification of the post. They stated that the selection is to be done as per the Recruitment Rules attached to the post. However, the selection methods are prescribed by the appointing authority. The criteria for award of marks on the basis of essential qualification as stipulated in the RR have already been prescribed by the competent authority (R-1(a)). They stated that engagement on daily wage/contract basis for short periods does not give the applicant any entitlement for claiming regular appointment. They further stated that there is no action to select and appoint any person in violation of the directions contained in the relevant orders.

4 The learned counsel for the respondents was directed to file an additional affidavit indicating whether a recruitment committee has been constituted before the Annexure A-1 employment notice and if so any guidelines have been formulated by the said committee either following the guidelines already prescribed or in modification thereof. The respondents have filed an affidavit to the effect that the department has constituted a recruitment committee and selection criteria were adopted and approved on 12.1.2009 i.e., before 28.5.2009 the date of inviting the applications to the post of Pharmacist. They also gave the list of members of the Recruitment Committee as follows:

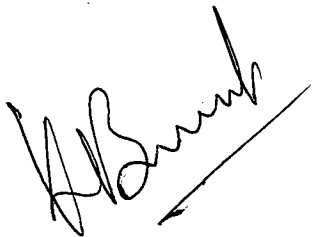
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- 1 The Director of Medical & Health Services- Chairman
- 2 Paediatrician, Directorate of Medical & Health Services- Member
- 3 Gynaecologist, Directorate of Medical & Health Services- Member
- 4 Chief Pharmacist, Directorate of Medical & Health Services- Member

They have also annexed Annexure R-1(b) to show that the Administrator has approved the criteria of selection to be adopted by the Committee well before the date of notification.

5 In view of this affidavit, we are of the opinion that nothing survives in this Application for consideration and the Application can be closed taking note of the affidavit. Accordingly, we record the affidavit filed by the respondents and dismiss the Application. No costs.

Dated 15th March, 2011



Dr. K.B. SURESH
JUDICIAL MEMBER



K. NOORJEHAN
ADMINISTRATIVE MEMBER

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