

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. No. 585/2000

Monday, this the 16th day of July, 2001.

CORAM

HON'BLE MR A.M. SIVADAS, JUDICIAL MEMBER

HON'BLE MR G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

1. K.P.B. Ahmed Koya, aged 40, S/o. late B. Muthukoya, Trained Graduate Teacher, Government High School, Agatti, residing at Agatti, Union Territory of Lakshadweep.
2. A. Hamza, aged 46, S/o. late S. Mohammed, Trained Graduate Teacher, Government High School, Agatti, residing at Avammappada, Agatti, Union Territory of Lakshadweep.
3. K.A. Mohammed Koya, aged 48, S/o. late P. Sayed Koya, Trained Graduate Teacher, Government High School, Agatti, residing at Keeppattu Acharahiyoda, Agatti, Union Territory of Lakshadweep.
4. B.B. Mohammed, aged 36, S/o. late Hamza, Trained Graduate Teacher, Government High School, Agatti, residing at Beeyashabeeyoda, Agatti, Union Territory of Lakshadweep.
5. A. Ashraf, aged 38, S/o. late Hamza, Trained Graduate Teacher, Government High School, Agatti, residing at Kiltan, Union Territory of Lakshadweep.
6. K. Abdul Wahab, aged 42, S/o. C. Kasmi, Trained Graduate Teacher, Government High School, Agatti, residing at Kariyamchetta, Agatti, Union Territory of Lakshadweep.
7. P. Abdul Gafoor, aged 31, S/o. late T. Abdulkader Koya, Trained Graduate Teacher, Government High School, Agatti, residing at Puthiyapattiniyoda, Agatti, Union Territory of Lakshadweep.
8. P. Alikoya, Aged 36, S/o. late A.K. Mohammed Koya, Trained Graduate Teacher, Government High School, Agatti, Residing at Pakrichibiyoda, Agatti, Union Territory of Lakshadweep.

9. P. Bahija Beegum, aged 31, D/o. K.P. Shamsuddeen Moulavi, Trained Graduate Teacher, Government High School, Agatti, residing at Kalpeni Island, Union Territory of Lakshadweep.
10. U. Ummal Vahida, aged 31, D/o. C. Hamza, Trained Graduate Teacher, Government High School, Agatti, residing at Uppathada, Agatti, Union Territory of Lakshadweep.
11. V. Ayshabi, aged 31, D/o. M. Ismail, Trained Graduate Teacher, Government High School, Agatti, residing at Valiyaillam, Agatti, Union Territory of Lakshadweep.
12. P. Jacob, aged 46, S/o. Kasmi Achammada (late) Trained Graduate Teacher, Government High School, Kiltan, residing at Puthiyathakkal House, Kiltan, Lakshadweep.
13. B.C. Shaikoya, aged 43, S/o. Hamzakoya Balali (late), Trained Graduate Teacher, Government High School, Kiltan, residing at Kiltan Island, Union Territory of Lakshadweep.
14. M. Beekayabi, aged 37, Kader Ammipura (late), Trained Graduate Teacher, Government High School, Kiltan, residing at Menakkal House, Kiltan, Union Territory of Lakshadweep.
15. M.K. Mohammed Shafi, aged 35, S/o. Mohammed Haji Pakkiyoda (late) Trained Graduate Teacher, Government High School, Kiltan, residing at Madheena Manzil, Kiltan, Lakshadweep.
16. P.S. Thahir, aged 40, S/o. Subair Asikkapura (late) Trained Graduate Teacher, Government High School, Kiltan, residing at Kiltan Island, Union Territory of Lakshadweep.
17. P.M. Ubaidulla, aged 36, S/o. Mohammed Pallipura, Trained Graduate Teacher, Government High School, Kiltan, residing at Palamadan House, Kiltan, Union Territory of Lakshadweep.

18. K.P. Mohammed Shafi, aged 36,
S/o. Ahamed Vvabithoda,
Trained Graduate Teacher,
Government High School, Kiltan,
residing at Kiltan Island,
Union Territory of Lakshadweep.
19. I. Shaikmon, aged 38,
S/o. Attaika Thekkilanalekappara (late)
Trained Graduate Teacher,
Government High School, Kiltan,
residing at Iyyayoda, Kiltan,
Lakshadweep.
20. P.K. Mohammed, aged 48,
S/o. Kakkinippura Kunhikoya,
Trained Graduate Teacher,
Directorate of Education, Kavaratti,
residing at Palankakada House,
Kavaratti, Union Territory of
Lakshadweep.
21. T.K. Abdul Kader, aged 47,
S/o. Mannayapuram Aboobacker,
Trained Graduate Teacher,
Directorate of Education, Kavaratti,
residing at Thirinikad House, Kavaratti,
Union Territory of Lakshadweep.
22. Smt. M.P. Bi, aged 43, D/o. Sayed Koya,
Trained Graduate Teacher,
Government High School, Kavaratti,
residing at Kavaratti,
Union Territory of Lakshadweep.
23. Bi M.P., aged 46, D/o. Hamzakoya,
Trained Graduate Teacher,
Government High School, Kavaratti,
residing at Kavaratti,
Union Territory of Lakshadweep.
24. P. Sayed Mohammed Koya, aged 42,
S/o. Abdul Rahman (late),
Trained Graduate Teacher,
Government High School,
Kavaratti, residing at Kavaratti,
Union Territory of Lakshadweep.
25. P. Fathimath, aged 31, D/o. Sayed Buhari,
Trained Graduate Teacher,
Government High School, Kavaratti,
Union Territory of Lakshadweep.
26. P. Mariyamma, aged 28, D/o. Kidave,
Trained Graduate Teacher,
Government High School, Kavaratti,
residing at Padippura House, Kavaratti,
Union Territory of Lakshadweep.
27. P.V. Raziya Beegum, aged 24,
D/o. C.M. Ahmed, Trained Graduate Teacher,
Government High School, Kavaratti,
residing at Rose Manzil, Kavaratti,

28. C.N. Abida Beegum, aged 29,
D/o. T. Abdul Azeez,
Trained Graduate Teacher,
Government High School, Kavaratti,
residing at Kavaratti,
Union Territory of Lakshadweep.
29. M.V. Sulfikar Ali, aged 32,
S/o. Sirajudheenthangal P. (Late),
Trained Graduate Teacher,
Government High School, Kavaratti,
residing at Union Territory of Lakshadweep.
30. B. Muthukoya, aged 49, S/o. Kannichetta Kidave,
Trained Graduate Teacher,
Government High School, Androth,
residing at Doluthoth, Androth,
Lakshadweep.
31. S. Pookunhikoya, aged 48,
S/o. Poilath Attakoya,
Trained Graduate Teacher,
Government High School, Androth,
residing at Sekkiriayammada, Androth,
Lakshadweep.
32. K.P. Sayed Ismail Koya, aged 48,
S/o. Kaithat Pookoya,
Trained Graduate Teacher,
Government High School, Androth,
residing at Baithul Razeeb Androth,
Lakshadweep.
33. K. Kunhi, aged 43, S/o. Sarachetta Kidave,
Trained Graduate Teacher,
Government High School, Androth,
residing at Androth, Lakshadweep.
34. P. Hamzakoya, aged 41,
S/o. Kidave Wallal, Trained Graduate Teacher,
Government High School, Androth, residing at
Androth, Lakshadweep.
35. M.P. Seethi, aged 44, S/o. Kandlath Sidheeque,
Trained Graduate Teacher, Government High School,
Androth, residing at Androth, Lakshadweep.
36. N.P. Mohammed Kasim, aged 35,
S/o. Kolikkat Koyakkidave,
Kayakkiclav, Trained Graduate Teacher,
Government High School, Androth,
residing at Androth, Lakshadweep.
37. K.T.P. Abdul Gafoor, aged 33,
S/o. Kolikkat Ummammada Muthukoya,
Trained Graduate Teacher, Government High School,
Androth, residing at Androth, Lakshadweep.
38. N.P. Shaikoya, aged 31, S/o. P. Alathuppura Muthukoya,
Trained Graduate Teacher, Government High School,
Androth, residing at Androth, Lakshadweep.

39. M.P. Hussain, aged 32, S/o. Kolikkat Kunhikunhi, Trained Graduate Teacher, Government High School, Androth, residing at Androth, Lakshadweep.
40. T.P. Shaikoya, aged 34, S/o. Kolikkat Koyammakoya, Trained Graduate Teacher, Government High School, Androth, residing at Androth, Lakshadweep.
41. K.K. Mohammed Shafi, aged 31, S/o. C.P. Kidave, Trained Graduate Teacher, Government High School, Androth, residing at Androth, Lakshadweep.
42. M.K. Mohammed Kasim, aged 33, S/o. Puthiyapura Kunhikoya, Trained Graduate Teacher, Government High School, Androth, residing at Androth, Lakshadweep.
43. S.V. Mohammed Rafecque, aged 28, S/o. Mayapura Thangakoya, Trained Graduate Teacher, Government High School, Androth, residing at Androth, Lakshadweep.
44. M.K. Mohammed Abdul Razak, aged 30, S/o. Kanjarkakkada Sayed Ismail Koya, Trained Graduate Teacher, Government High School, Androth, residing at Androth, Lakshadweep.
45. K. Mohammed Nazeemuddeen, aged 28, S/o. P. Buthiyaveet Cheriyakoya Thangal, Trained Graduate Teacher, Government High School, Androth, residing at Androth, Lakshadweep.
46. E.K. Mohammed Haneefa, aged 31, S/o. K. Cheriyadam Muthukoya, Trained Graduate Teacher, Government High School, Androth, residing at Androth, Lakshadweep.
47. M. Cheriyakoya, aged 46, S/o. Shaikoya Peechmal (Late), Trained Graduate Teacher, Government High School, Amiri, residing at Hadappalli, Amini Island, Union Territory of Lakshadweep.
48. P.K. Syed Mohammed, aged 43, S/o. Abdul Khader S., Trained Graduate Teacher, Government High School, Amini, residing at Puthiya Kunnacha, Amini, Union Territory of Lakshadweep.

49. M. Pookoya, aged 41, S/o. Attakoya Thaithodam, Trained Graduate Teacher, Government High School, Amini, Union Territory of Lakshadweep.

50. A. Mohammed Koya, aged 33, S/o. Kidave Koormel, Trained Graduate Teacher, Government High School, Amini, residing at Achammada, Amini, Union Territory of Lakshadweep.

51. P.K. Badar, aged 27, S/o. Syed Mulla, Trained Graduate Teacher, Government High School, Amini, residing at Amini, Union Territory of Lakshadweep.

52. K.K. Malik, aged 33, S/o. P.V. Shuik, Trained Graduate Teacher, Government High School, Amini, residing at Amini, Union Territory of Lakshadweep.

53. P. Mohammed Haneef, aged 50, S/o. Attakidave, Kadiyaithiyoda, Trained Graduate Teacher, Govt. High School, Kadmai Native of Chetlat Island.

54. P.P. Abdulkader, aged 30, S/o. late Mohammed Haji Pllam, Trained Graduate Teacher, Government High School, Kadmat.

55. P.M. Nazer, aged 59, S/o. Kunhi Koya K., Trained Graduate Teacher, Government High School, Kadmat.

56. K. Ruhiyath, aged 35, D/o. Kareem Koya P.T., Trained Graduate Teacher, Government High School, Kadmat.

57. Hidayathulla, aged 30, S/o. late Mohammed M.C., Trained Graduate Teacher, Government High School, Kadmat.

58. B.C. Ahamed Koya, aged 34, S/o. Aboobaker Koya T., Trained Graduate Teacher, Government High School, Kadmat.

59. Shri. T.P. Kunhikoya, aged 32 years, S/o. Sainulabid Puthiyathakkal, Trained Graduate Teacher, Government High School, Kadmat, Lakshadweep-682 556.

60. A. Muhammed, aged 47, S/o. Pakkikoya Barathinapura (late), Trained Graduate Teacher, Govt. High School, residing at Firdhouse Manzil, Chetlat, Lakshadweep-682554.

61. P.P. Syed Ahamed, aged 30, S/o. Poonam Abdullakoya, Trained Graduate Teacher, Govt. High School, Chetlat, residing at Poona House, Chetlat, Lakshadweep-682554.

By Advocate Mr P.K. Madhusoodhanan

Versus

1. Secretary,
Ministry of Human Resource Development,
(Dept. of Secondary Education & Higher Education),
A.2/W.4, Curzon Road Barracks,
New Delhi.
2. The Administrator,
Union Territory of Lakshadweep,
Kavaratti.
3. Union of India rep. by the Secretary,
Ministry of Personnel, Public Grievances & Pension,
Department of Education,
New Delhi.
4. K.P. Koya, aged 42 years,
S/o late U. Attakoya,
Trained Graduate Teacher,
Govt. High School, Agatti, Lakshadweep. .. Respondents

By Advocates Mr. R. Prasanthkumar, ACGSC (R1&3),
Mr. S. Radhakrishnan (R2) and
Mr. E.S.M. Kabeer (R4) (not present)

The application having been heard on 16-7-2001, the
Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER

Applicants seek to quash A4 and A10 and to direct the official respondents to consider them for promotion to the post of Head Master, Senior Basic School/Assistant Head Master, High School/Assistant Educational Officer (Academic) as per their due turn.

2. Applicants are graduates with B.Ed Degree and working as Trained Graduate Teachers (TGTs for short). Recruitment rules for promotion from the posts of TGTs were unilaterally amended prescribing minimum educational qualification of post-graduation for consideration for promotion as per A4. The first applicant was served with A10 order dated 9-2-2000. The same is erroneous. The amendment as per A4 has been resorted to hastily prescribing essential educational qualification as

post-graduation for promotion of TGTs of Union Territory of Lakshadweep to the next higher post in their ladder of promotion totally restricting and denying their right to be considered for promotion even without prescribing the quota for graduate TGTs or a ratio for them is arbitrary and discriminatory. It is violative of Articles 14 and 16 of the Constitution of India. No principle is followed in prescribing post-graduation to TGTs in Lakshadweep alone for promotion to the next higher post. Against the principles of natural justice and fair play applicants' legitimate expectation cannot be obliterated.

3. Respondents 1 and 3 contend that the amended recruitment rules are now in force. What the applicants in fact seek is to direct the respondents to act against the amended recruitment rules in force. There cannot be any such direction. Those who are juniors to the applicants are not brought in the party array.

4. The 2nd respondent contends that the Ministry of Human Resource Development has clarified that Headmaster (Senior Basic School)/Assistant Education Officer (A) should have postgraduate qualification. In compliance with the orders of this Bench of the Tribunal in OA No.529/95 the matter was considered and disposed of by the Ministry of Human Resource Development with the opinion that recruitment rules notified by the Lakshadweep Administration for the post of Headmaster, Senior Basic School/Assistant Education Officer(A) and Assistant Headmaster, High School dated 9-12-1994 is not in tune with the Ministry's letter dated 3-11-87 and directed the 2nd respondent to amend the relevant provisions of the

aforesaid recruitment rules urgently by prescribing postgraduate qualification for promotion to the said post. No motives can be attributed to the legislature in making the law.

5. The 4th respondent contends that what happened is for improvement of the service conditions of teachers the Government of India appointed a Commission under the chairmanship of Prof. Chattopadhyaya. The Commission submitted the report along with recommendations. Recommendations were accepted by the Government. Intention of the applicants is to get exemption from acquiring the required qualification which is intended to improve the academic standard. The question of reservation or maintaining quota for TGTs will affect the entire educational system.

6. A10 is the order issued by the Ministry of Human Resource Development (Department of Secondary Education & Higher Education) in pursuance of the directions contained in the order of this Bench of the Tribunal in OA No. 1133/99. A10 says that the Ministry of Human Resources Development does not consider it advisable to make any change in the recruitment rules for promotion to the post of Headmaster (Senior Basic School), Assistant Education Officer (A) and Assistant Headmaster High School.

7. A4 is the amendment to the recruitment rules, wherein it is stated that for promotion to the post of Headmaster (Senior Basic School)/Assistant Education Officer (Academic)/ Assistant Headmaster High School, one should be a Trained Graduate Teacher with five years regular service in the grade with Post Graduate qualification. Formerly, one who is a

Trained Graduate Teacher with five years regular service in the grade could be promoted to the said post. So, the position is that the Post Graduate qualification has become a must now.

8. The learned counsel appearing for the applicants vehemently argued that prescribing Postgraduate qualification as per A4 is violative of the provisions of Articles 14 and 16 of the Constitution of India, that the said qualification of Post-graduation is prescribed only in the Union Territory of Lakshadweep and not in other Union Territories, that there is no principle followed for prescribing the Post-graduation and therefore, A4 is bad in law and is unsustainable.

9. At the very outset, it is pertinent to note that an identical question was considered by this Bench of the Tribunal in OA Nos. 232/96, 275/96 and 830/97. In the common order in those OAs, it has been held that it is the prerogative of the administration to prescribe the qualification for different posts, that the amendment (A4 herein) was only to implement the recommendations of Chattopadhyaya Commission and there is nothing arbitrary or discriminatory in the amendment.

10. The learned counsel for applicants submitted that all grounds raised herein were not raised in the earlier OAs. From the common order in the said OAs it is seen that applicants therein challenged the amendment A4 on the ground that it is arbitrary and discriminatory. Applicants herein also say that it is arbitrary and discriminatory.

11. Article 14 of the Constitution gives the right to equality. Equal protection means the right to equal treatment in similar circumstances. The principle of equality does not mean that every law must have universal application for all

persons who are not by nature, attainment or circumstances in the same position, as the varying needs of different classes of persons often require separate treatment. Differential treatment does not per se constitute violation of Article 14. So, the argument advanced by the learned counsel for applicants that in other Union Territories the same qualification is not prescribed and therefore there is a differential treatment as far as applicants who are in Lakshadweep island concerned cannot be accepted. A4 amendment is applicable not only to the applicants but to a well defined class. If a law deals equally with members of a well defined class, it is not obnoxious and it is not open to the charge of denial of equal protection on the ground that it has no application to other persons. No service rule can satisfy each employee. Article 14 does not insist that legislative classification should be scientifically perfect or logically complete. Mere differentiation or inequality of treatment or inequality of burden does not per se amount to discrimination within the inhibition of the equal protection clause. To attract the operation of the clause it is necessary to show that the selection or differentiation is unreasonable or arbitrary. Here, A4 amendment has been brought into effect on the recommendations of Chattopadhyaya Commission. Postgraduate qualification is prescribed as per A4. It can only be said to be for the improvement of the standard or to keep excellence in the field of education. It cannot be termed as unreasonable or arbitrary. Article 16 of the Constitution does not prohibit the prescription of reasonable rules for selection to any employment or appointment to any office. It is open to the appointing authority to lay down such prerequisite conditions for appointment as would be conducive to proper discipline amongst Government servants. Such a selection may be made even in the absence of statutory rules. Prescribing Masters degree for the post in question can

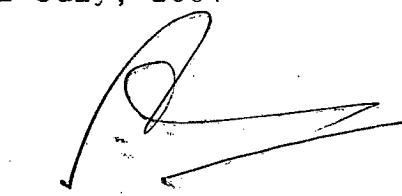
only be said to be conducive to the efficiency in the field of education. That being the position, the argument advanced by the learned counsel for applicants that A4 is violative of Articles 14 and 16 of the Constitution cannot be accepted.

12. Accordingly, the Original Application is dismissed. No costs.

Monday, this the 16th day of July, 2001



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER



A.M. GAVADAS
JUDICIAL MEMBER

ak.

List of Annexure referred to in this order:

1. A4 True copy of Notification F.No. 18/30/89-Edn dated 25-1-1996 issued by the 2nd respondent.
2. A10 True copy of Order No. F. 6-5/99-U.T.1 dated 9-2-2000 issued by the 1st respondent.