

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. NO. 1742/98 & 587/99

MONDAY, THIS THE 13th DAY OF AUGUST, 2001.

C O R A M

HON'BLE MR. A. M. SIVADAS, JUDICIAL MEMBER
HON'BLE MR. G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

O.A. No. 1742/98

1. B. C. Ibrahim
Language Teacher (Arabic)
Government Junior Basic School (south)
Kadamat,
Union Territory of Lakshadweep.
2. M.P. Tahudeen
Language Teacher (Arabic)
Government Junior Basic School (south)
Agatti,
Union Territory of Lakshadweep.
3. P. Abdul Latif
Language Teacher (Arabic)
Government Junior Basic School (North)
Amini
Union Territory of Lakshadweep.
4. P. Yacoob
Language Teacher (Arabic)
Govt. High School
Kadamat,
Union Territory of Lakshadweep.
5. K.M. Mohammed Badsha
Language Teacher (Arabic)
Govt. Junior Basic School (Central)
Amini
Union Territory of Lakshadweep.
6. P.A. Arif
Language Teacher (Arabic)
Government Senior Basic School (Girls)
Androt
Union Territory of Lakshadweep.
7. P. Mohammed Rafeek
Language Teacher (Arabic)
Government Junior Basic School (Central)
Amini
Union Territory of Lakshadweep.
8. C. C. Mohamed Shafi
Language Teacher (Arabic)
Government Junior Basic School (North)
Androt,
U.T. of Lakshadweep.

9. B.M. Ibrahim
Language Teacher (Arabic)
Government Junior Basic School North,
Kadamat
Union Territory of Lakshadweep.
10. A.K. Sayed Mohamed Koya
Language Teacher (Arabic)
Government Junior Basic School, Kalpeni
Union Territory of Lakshadweep.
11. P. Musthafa
Language Teacher (Arabic)
Government High School, Kalpeni
Kalpeni
Union Territory of Lakshadweep.
12. A. Koya
Language Teacher (Arabic)
Government Junior Basic School (South)
Amini.
13. P.V. Radhiyabi
Language Teacher (Arabic)
Government Junior Basic School (Central)
Minicoy
Union Territory of Lakshadweep.
14. C. M. Athikabi
Language Teacher (Central)
Government Senior Basic School
Kalpeni,
Union Territory of Lakshadweep.....Applicants

By Advocate Mr. M.V. Thamban

Vs

1. The Director of Education
Union Territory of Lakshadweep
Kavaratti.
2. The Administrator
Union Territory of Lakshadweep
Kavaratti.
3. The Union of India
represented by the Secretary
Ministry of Human Resources
Development (Department of Education)
New Delhi.
4. The Headmaster
Government High School
Kadamat,
U.T. of Lakshadweep
5. The Headmaster
Government High School
Agatti
U.T. of Lakshadweep
6. The Headmaster
Government High School
Kalpeni
U.T. of Lakshadweep

7. The Headmaster
Government High School
Amini
U.T. of Lakshadweep
8. The Headmaster
Government High School
Androt
U.T. Lakshadweep
9. The Headmaster,
Government High School
Minicoy
U.T. of Lakshadweep

...Respondents

By Advocate Mr. S. Radhakrishnan for R 1-9

O.A.No.587/99

E.K. Shahudeen
Language Teacher (Arabic)
Government Junior Basic School, North
U.T. of Lakshadweep.

Applicant

By Advocate Mr. M.V. Thamban

Vs.

1. The Director of Education
U.T. of Lakshadweep
Kavaratti.
2. The Administrator
U.T. of Lakshadweep
Kavaratti.
3. The Union of India represented by
the Secretary
Ministry of Human Resources Development
Department of Education
New Delhi.
4. The Headmaster
Government High School, Kiltan
U.T. of Lakshadweep.

Respondents

By Advocate Mr. S. Radhakrishnan,

These Applications having been heard on 26.7.2001 the
Tribunal delivered the following on 13.8.2001.

O R D E R

HON'BLE MR. G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER.

As the issues involved in both the above Original
Applications are identical both the Original Applications
were heard together and are being disposed of by this common
order.

2. O.A. No. 1742/98 was filed by 14 applicants working as Language Teachers (Arabic) in various schools under the the Department of Education, Union Territory of Lakshadweep. On being selected and appointed as Arabic Teachers they were granted the scale of Rs. 1200-2040 originally. They approached this Tribunal by filing O.A. No. 839/95 alleging discrimination and violation of Recruitment Rules in force. By A-8 order dated 21.3.1997 this Tribunal allowed the O.A. declaring that the applicants were entitled to the scale of Rs. 1400-2300 from the date of their appointment. Respondents challenged A-8 before the Hon'ble high Court of Kerala in O.P.No. 10082/97 which was dismissed as withdrawn by judgment dated 20.10.1997. The applicants filed O.P. 15005/98 before the Hon'ble High Court praying for modification of A-8 judgment to the extent they were entitled to the scale of Rs. 1400-2600 on completion of three years of service and such other reliefs. According to them, by the time the O.P. came up for consideration, they were already paid the benefit of the scale of Rs. 1400-2600 from the date they completed 3 years of service and consequential arrears. Accordingly, the O.P. was disposed of by A-9 judgment dated 21.8.1998. Relying on A-8 judgment the first respondent issued A-10 proceedings dated 28.3.1998 according to which the applicants were granted scale of Rs. 1400-2300 from the date of their appointment with no specific direction for grant of scale of Rs. 1400-2600 on completion of 3 years. All the Headmasters under whom the applicants were working implemented A-10 proceedings read with A-8 judgment and A-11 was a copy of one such order dated 21.4.1998 issued by the Headmaster, Government High school, Amini. According to the said order the pay of some of the applicants was fixed in the scale of Rs. 1400-2300 w.e.f. the respective dates of

their appointments and was fixed again in the scale of Rs. 1400-2600 from the dates they completed 3 years service in the grade. They were also given the corresponding new scale of Rs. 5500-9000 when implementing the Fifth Pay Commission Report w.e.f. 1.1.96. According to the applicants when auditors raised objection during Annual audit pointing out that the scale of Rs. 1400-2600 granted was not in conformity with A-10 order of the first respondent, the second respondent without applying his mind sent A-13 telegram dated 28.11.98 to all Headmasters to reduce the pay of applicants to the scale of Rs. 1400-2300 and consequential replacement of scale of Rs. 5500-9000 with Rs. 4500-7000. According to them the Headmasters were taking hasty steps to revise the pay scale downwards from Rs. 1400-2600 to that of Rs. 1400-2300 and corresponding new scale of Rs. 4500-7000 from Rs. 5500-9000 and recover the alleged over payments. The Headmaster, Government High School, Agathi had already issued A-14 order dated 4.12.98 in respect of the second applicant and similar hasty steps were being taken to bring down the scales to the lower scales and recover the excess amounts from other applicants as well. According to them the pay scale of the Language Teachers including the Language Teachers (Arabic) were revised by A-2, A-4, A-5 and A-6 orders w.e.f. 5.9.1981 and the higher scale of Rs. 440-750 was granted to all Arabic teachers irrespective of their qualifications. The scale of Rs. 440-750 was revised to Rs. 1400-2600 w.e.f. 1.1.86 which was further revised to Rs. 5500-9000 w.e.f. 1.1.1996 and these benefits were given to all Arabic Teachers appointed prior to the applicants with Afsal-Ul-Ulama qualification. When there was no objection in their cases the applicants could not be discriminated. The objections and the consequential downward revision were illegal and

perverse. Relying on A-15 regarding the review of pay scales of Teaching staff on implementation of the Fifth Pay revision w.e.f. 1.1.1996 it was submitted that no separate scales were granted to Language Teachers or Specialist Teachers. Annexure A-13 issued by the second respondent to all Headmasters without notice or opportunity of being heard to the applicants was violative of principles of natural justice. This Tribunal had already held that the applicants were entitled to the scale of Rs. 1400-23000 from the date of their appointment from which it followed that the applicants were entitled to higher pay scale of Rs. 1400-2600 after completion of three years. Hence, A-13 and A-14 were illegal and unsustainable. The O.P. No. 10082/97 filed by the respondents before the Hon'ble High Court challenging the order of this Tribunal was dismissed as withdrawn. O.P.No. 15005/98 filed by the applicants before the High Court of Kerala was closed since the entire reliefs were already granted by the respondents. Subsequent revision of their pay downwards were unsustainable. For the above grounds the applicants sought the following reliefs:

(i) to issue a declaration that applicants are entitled to the scales as granted in Annexure A-11 and A-12 and that the said reliefs granted cannot be taken away.

(ii) to direct the respondents to give the scale of Rs. 1400-2600 to the applicants from the dates they completed 3 years of service and further to the corresponding scale of Rs. 5500-9000 with effect from 1.1.1996 as granted in Annexure A-11 and A-12.

(iii) to call for the records and quash Annexure A-13 and A-14

(iv) to direct the respondents not to revise the scales of pay of applicants downwards as long as Annexure A-8 judgment stands.

(v) to issue such other order or directions as this Hon'ble Tribunal may deem fit in the facts and circumstances of this case and

(vi) to award exemplary cost of this proceedings to the applicants.

3. Original Application No. 587/99 was filed by one Language Teacher (Arabic) working in the Government Junior Basic School (North), Kiltan aggrieved by A-8 order dated 28.11.98 issued by the first respondent and A-9 order dated 29.1.1999 issued by the 4th respondent. He was not a party in O.A. 839/95. He filed A-4 representation dated 8.4.98 before the second respondent being similarly placed. When the respondents took the view that the benefits could be given only to the applicants who filed Original Application, he filed O.A. 618/98 before this Tribunal which was disposed of by A-5 order dated 27.4.98 granting similar reliefs as granted to the applicants in O.A. 839/95. Consequent to A-5 order the second respondent issued A-6 order dated 31.8.1998 in respect of the applicant and two other similarly placed Arabic Teachers extending the same benefits granted to the applicants in O.A.839/95 fixing the scale of applicant in Rs. 1400-2300 w.e.f. his date of appointment in which there was no specific direction to grant the scale of Rs. 1400-2600 on completion of three years. Fourth respondent issued A-7 order dated 15.10.98 fixing the applicant's pay in the scale of Rs. 1400-2300 with effect from 13.12.1988 and in the revised scale of Rs. 5500-9000 with effect from 1.1.1996. But before he was granted arrears by implementing A-7 order as there was some objection by Audit, the first respondent sent A-8 telegram dated 28.11.98 was sent to all Headmasters. It was stated in A-8 telegram the case of one Arabic Teacher - Sri Thajudeen - that he was not entitled to the scale of Rs. 1400-2600 and also the replacement scale of Rs. 5500-9000. Pursuant to A-8, fourth respondent issued A-9 order fixing applicant's pay afresh in the scale of Rs. 1400-2300 from 13.12.1988 and further revised to the scale of Rs. 4500-7000 w.e.f. 1.1.1996 instead of the appropriate scale

of Rs. 5500-9000. The said order was illegal, arbitrary and discriminatory as A-11 order dated 5.6.1989 and A-12 order dated 3.11.1992 were issued in favour of one Sri M. C. Hider and one Sri M.C. Muzammil respectively with only Afsal-Ul-Ulama qualification granting them the scale of Rs. 1400-2600 on completion of three years w.e.f. 1.1.1986 and 1.9.1986 respectively. A-1 Recruitment Rule would indicate that there was only one scale of pay for Language Teachers (Arabic). The O.M. dated 18.7.84 and 17.3.86 would show that the entry scale of Arabic Teachers was Rs. 425-640 (Rs 1400-2300-revised) and on completion of three years they were entitled to Rs. 440-750 (Rs. 1400-2600-revised). The respondents could not discriminate on the basis of qualifications in view of the Recruitment Rules which even now remained in full force. The higher scale of Rs. 440-750 was granted to Arabic Teachers and the same was revised to the scale of Rs. 1400-2600 w.e.f. 1.1.86 and Rs. 5500-9000 w.e.f. 1.1.96 and all these benefits were granted to all Arabic Teachers appointed prior to 1988. When there was no objection in their case, the applicant was entitled to the benefits as accorded in A-7. Hence he sought the following reliefs.:

(i) to issue a declaration that the applicant is entitled to all the reliefs granted in Annexure A-2 Judgment and the scales as granted in Annexure A-7

(ii) to direct the respondents to grant the scale of Rs. 1400-2600 (pre-revised) to the applicant on completion of 3 years service on 13.12.1991 and further to the scale of Rs. 5500-9000 with effect from 1.1.96 and grant arrears of salary with 18% interest.

(iii) to call for the records leading to Annexure A-8 and A-9 quash Annexure A-8 and A-9.

(iv) to issue such other order or directions as this Hon'ble Court may deem fit and proper in the facts and circumstances of this case.

(v) to award exemplary cost of this proceedings to the petitioner.

4. Respondents filed reply statement resisting the claims of the applicants in both Original Applications. In O.A. No. 1742/1992, referring to A-5 proceedings of the Administrator dated 17.3.1987 it was submitted that the benefit of higher scale of Rs.440-750 was given to one K. B. Abdul Khader based on the order of the High Court of Kerala in CMP NO. 20076/85 in O.P. No. 6807/85-V. According to them as per Court direction and Government of India direction contained in A-6 dated 16.6.1988 higher scale was applicable only to those who were in service as on 5.9.81 and those who were appointed after 5.9.81 would not be eligible for higher scale. The Court had not directed the respondents to give the benefit of scale of Rs 1400-2600 to the applicants when they complete 3 years of service. The Ministry had specifically directed the Administration not to extend the benefit of higher scale to those who were appointed after the cut of date of 5.9.81. All the applicants were appointed after this date. They were not eligible for the scale of Rs. 5500-9000 since the basic scale in the pre-revised scale was Rs. 1400-2300. They were specifically appointed to the scale of Rs. 1200-2040 (pre-revised) for which corresponding normal revised scale was Rs. 4500-7000. There was no corresponding scale prescribed under part-B of notification issued by the Govt. of India for the scale of Rs. 1400-2300. So what was applicable was the replacement scale for Rs. 1400-2300 which was Rs. 4500-7000 in part-A. They did not possess degree in Arabic with B.Ed which were the basic qualification prescribed for trained graduate Teachers for whom the scale of Rs. 1400-2600 (pre-revised) was applicable. The Government of India declared that Afzal-Ul-Ulama was not equivalent to degree with B.Ed. The applicants possess only Afzal-Ul-Ulama qualification.

Annexure A-6 had been implemented by giving the benefit not to all existing Arabic Teachers but only to those who were in service on 5.9.81. the applicants were not in service on that date. A-7 was not the proceeding for the creation of new posts as claimed by the applicants. They were issued to accord sanction for the continuation of the temporary posts which were in existence on 28.2.89 for a further period of one year. A-7 showed that the entry scale was Rs. 1400-2300. Hence, the statement of the applicants that the entry scale given in A-7 was Rs. 1400-2600 was totally wrong. The applicants were appointed in the scale of Rs. 1200-2040 on sympathetic ground taking into consideration the peculiar conditions prevailing in Lakshadweep. The applicants were selected only to teach Arabic in the classes 1 to 7 whereas Primary School Teachers were handling other subjects. It was not obligatory on the part of the applicants to take the higher classes time table though subject allotments to the teachers were prepared by the Headmasters concerned. However, the Headmasters were at liberty to deploy the teachers in any class if they find some one for that work. It was possible that some of the Headmasters might have requested some of the applicants to A-8 had been fully implemented by the Administration. Neither this Tribunal nor the Ministry had directed the Administration that the applicants who did not possess the required qualification be paid higher scale. Hence, the administration was not in a position to grant higher scale to the applicants. A-8 and A-9 were legal and sustainable.

5. In O.A. No. 587/99 apart from the objections raised in O.A. No. 1742/98 they submitted that by R-2 letter dated 16.6.98 the Ministry had stressed the point that there would be strict adherence to the qualifications prescribed

to the post in the scale of Rs. 1400-2600. The applicant in this O.A. did not possess this qualification required and he was not a party to the earlier O.A. According to them R-3 was a true copy of the relevant schedule prescribing qualification for Trained Graduate Teacher (Arabic). A-8 and A-9 were not illegal arbitrary and discriminatory and were not against the spirit of A-2 judgment. Some of the Headmasters had fixed the pay of Arabic Teachers appointed after 1981 erroneously by giving them the scale of pay of Rs. 1400-2600 and as such a general instruction was given to all Head Masters to revise the pay fixation as per A-2 court order and direction from the Ministry. Annexure R-5 is a copy of such instruction dated 4.6.99.

6. Heard learned counsel for the parties.

7. We have given careful consideration to the submissions made by the learned counsel for the parties and the rival pleadings and have also perused the documents brought on record.

8. When the applicants in O.A. No. 1742/98 approached this Tribunal by filing O.A. No. 839/98 this Tribunal held that the applicants were entitled for the reliefs prayed for in the said Application. It was held by this Tribunal in A-8 order dated 21.3.97 as follows:

9. There is however one aspect of this case which deserves consideration. Admittedly, the applicants have been recruited by virtue of Recruitment Rules as produced at Annexure A1 which provides for pay scale of the then Rs. 130-300 and an educational qualification of Afsal-Ul-Ulama or BA with Arabic under Part III only. It is also an admitted position that this pay scale has been modified from time to time and would now be Rs. 1400-2300. The Government letter (produced as Annexure R1), though it relates to the basic issue as

to whether a Afsal-Ul-Ulama qualification can be considered to be equal to a trained graduate teacher's qualification also makes specific reference that "recruitment rules regarding pay scales etc. should be amended so that Afsal-Ul-Ulama qualification can be made in the Primary Teachers grade on an adhoc basis." But the amendment has not so far been done. That being the case, the claim of the applicants for the scale of pay as per the Recruitment Rules prevalent then cannot be denied. It is true that the applicants were specifically told at the time of their appointment that their pay scale would be Rs. 1200-2040. The limitation per se however cannot come into way of their legitimate claim for the higher pay scale. The contention made by the applicants that the applicants are entitled to those scale as stipulated in the Recruitment Rules at the time of their recruitment as revised from time to time and that a simple communication as shown in Annexure A5 of the Administrator or a communication of Government of India to the Administrator as shown in Annexure R1 cannot taken away the scale of pay as per the statutory recruitment rules has to be upheld. Accordingly, we hold that the present applicants are entitled to the reliefs prayed for in this application. In the result, we declare that the applicants are entitled to the scale of Rs. 1440-2300 from the date of their appointment. However, we restrict the payment of arrears as a result of the revision of pay scales to a period of three years prior to the date of filing of this application i.e. with effect from June, 1992 only.

10. The application is allowed as above. There will be no order as to costs.."

Even though the respondents challenged the said A-8 order by filing Original Petition No. 10082/97 before the Hon'ble High Court of Kerala, the same was dismissed as withdrawn. Subsequently, the applicants moved the Hon'ble High Court in O.P. No. 15005/98. The said O.P. was disposed of by the Hon'ble High Court of Kerala by judgment dated 21.8.98. The said judgment reads as follows:

Heard Mr. M.V. Thamban for the petitioners and Mr. S. Radhakrishnan for the Lakshadweep Administration.

2. The Original Petition was filed for a direction to modify Ext. P5 judgment of the Central Administrative Tribunal, Ernakulam Bench and also to declare that the petitioners will be entitled to a scale of pay of Rs. 1400-2600 on completion of three years. The Tribunal held that the applicants before it are entitled to the relief prayed for in the application. In the result, the Tribunal declared

that the applicants are entitled to the scale of pay of Rs. 1400-2300/- from the date of their appointment. However, they restricted the payment of arrears as a result of the revision of pay scale to a period of three years prior to the date of filing of the application, i.e., with effect from June 1992 only. Aggrieved by the above direction, the petitioners have filed the Original Petition to modify the judgment of the Tribunal.

3. It is now represented by learned counsel for the petitioners that the government have granted the relief as prayed for and, therefore, there is no need to keep the Original Petition pending. In view of the representation made, the Original Petition is disposed of accordingly. No costs.

The reliefs prayed for in the above O.P. were as follows as seen from the above A-9 judgment dated 21.8.1998:

(a) issue a writ of mandamus or other writ or order or direction or declaration to modifying Ext. P5 judgment to the following effect:

(i) all the petitioners will be entitled to a scale of pay of Rs. 1400-2600/- on completion of 3 years;

(ii) to issue a declaration that the petitioners cannot be discriminated on the basis of date of appointment.

(iii) petitioners will be entitled to all benefits allowed to those Afsal-Ul-Ulama holders appointed prior to 1988

(iv) to issue such other writ or order or direction as this Hon'ble Court may deem fit and proper in this case.

The applicants specifically averred as follows in the Original Application.

"There was no specific direction to grant the higher scale of Rs. 1400-2600 on completion of 3 years, even though the spirit of the judgment is the same. Therefore applicants have jointly filed O.P.No. 15005/98 before the Hon'ble High Court of Kerala praying for modification of annexure A-8 judgment to the extent that they are entitled to the scale of Rs. 1400-2600 on completion of 3 years and such other reliefs. By the time the Original Petition came up for consideration the applicants were already extended the benefit of the scale of Rs. 1400-2600 from the date they completed 3 years of service and they were paid pay fixation and consequential arrears. Recording this fact the Original Petition was disposed of by judgment dated 21.8.1998, a copy of which is produced and marked as Annexure A-9".

They have also taken a specific ground as follows:

"D. Even though applicants have moved the Hon'ble High Court in O.P.No.15005/98, that was closed by Annexure A-9 judgment. That Original Petition was closed since the entire reliefs were already granted by the respondents. Subsequently taking up the issue and revising the pay of applicants downwards is unsustainable.

9. It is evident from the judgment that the Hon'ble High Court of Kerala disposed of the O.P. on the specific representation of the learned counsel for petitioners made in the presence of the learned counsel for the Lakshadweep Administration that the Government granted the reliefs as prayed for and therefore there was no need to keep the O.P. pending. This judgment has become final between the parties. Shri M.P. Tajuddeen referred to in A-12 and A-14 impugned orders was the second petitioner in the above mentioned O.P. When such is the case we find considerable force in the above ground of the applicants. We are of the view that withdrawing the benefits given by A-12 order dated 13.4.98 and by A-14 order dated 4.12.98 cannot be sustained and are liable to be set aside and quashed.

10. When the applicants approached this Tribunal by filing O.A. 839/95 they were in the grade of Rs. 1200-2040. As is evident from the extract of the order reproduced above, this Tribunal allowed the grade of Rs. 1400-2300 to them from the date of appointment for the reason that the claim of the applicants for the scale of pay as per the Recruitment Rules cannot be denied to them.

11. According to the applicants as per A-6 letter dated 16.6.88 the pay of Language Teachers including Arabic Teachers had been revised from Rs. 425-640 to Rs. 1400-2600 with effect from 1.1.86 for those who had

completed 3 years in the scale and till such time they completed 3 years the replacement scale would be Rs. 1400-2300. We note that in A-11 letter dated 21.4.98 issued by Head Master, Govt. High School, Amini, A-6 letter had been referred to while fixing the pay of 5th, 6th, 11th and 12th applicants. A-6 letter dated 16.6.88 reads as under:

Sub: Upgradation of scales of pay of miscellaneous categories of teachers from Rs. 425-640 to Rs. 1400-2600

Sir,

The question of revision of pay scale of some miscellaneous categories of posts of teachers who were in the pre-revised pay scale of Rs. 425-640 to the revised pay scale of Rs. 1400-2600 has been under consideration for some time. It has now been decided with the approval of the Ministry of Finance to revise the pay scale of Rs. 425-15-560-EB-20-640 to Rs. 1400-40-1600-50-1950-EB 50-2250- EB -50-2300 -60-2600 in respect of the following posts with effect from 1.1.1986

Name of Union Territory	Name of Posts
Dadra and Nagar Haveli	1. Drawing Teacher 2. Carpentry Demonstrator 3. Shorthand and Type Instructor, Craft Instructor
Pondicherry Lakshadweep	1. Language Teacher Malayalam 2. Language Teacher (Hindi) 3. Language Teacher (Arabic) 4. Drawing Teacher 5. Physical Training Instructor

The revision will be subject to the condition that the incumbents must have rendered 3 years service in the grade of Rs. 1400-2300. For future recruitment, there will be strict adherence to the qualifications prescribed for posts in the scale of Rs. 1400-2600.

3. The conditions laid down in this Ministry's letter No. 5-180/86-UT.I dated 2.8.87 will also apply.

4. The expenditure will be met out of the sanctioned budget grants of the Union Territory Administrations.

5. This issues with the concurrence of Ministry of Finance (Department of Expenditure) U.O. No. 2215/E.III/88 dated 26.5.88."

12. On a plain reading of the above letter we come to the conclusion that according to the above letter pay scale of the incumbents of the posts of Language Teachers (Arabic) and others listed in the above letter would be revised to grade Rs. 1400-2600 on completion of 3 years of service in the grade of Rs. 1400-2300. Further the condition that the incumbents must have rendered 3 years of service in the grade of Rs. 1400-2300 would clearly indicate that those Arabic Language Teachers who were recruited even after 1.1.1986 were entitled for the grade of Rs. 1400-2600 on completion of three years of service in the grade of Rs. 1400-2300. When such is the case we do not find any infirmity in A-11 order dated 21.4.98 and similar other orders issued by the Head Masters of the Schools fixing the pay of the applicants in the grade of Rs. 1400-2600 on completion of three years of service from their dates of appointment pursuant to A-8 order dated 21.3.97 of this Tribunal holding that they were entitled for the grade of Rs. 1400-2300 from their dates of appointment.

13. In fact we are of the view that this Tribunal in its A-8 order after holding that the applicants were entitled for holding the scale of Rs. 1400-2300 from their dates of appointment had not gone into the question as to whether they were entitled for grade of Rs. 1400-2600 on completion of 3 years of service in the grade of 1400-2300 on the basis of A-6 order dated 16.6.88 or A-2 order dated 27.3.82. We have in the above paragraph after going through A-6 order dated 16.6.88 held that the said letter provided for grant of grade of Rs. 1400-2600 to the Language Teachers (Arabic) who have rendered 3 years of service in the grade of Rs. 1400-2300 without any restriction as to when they were appointed. As the respondents had relied on A-2 letter

dated 27.3.82 for not giving the grade of Rs. 440-750 to those appointed after 5.9.1981 on completion of 3 years of service in grade of Rs. 425-640 we have given our careful consideration to the said A-2 letter dated 27.3.82 which is reproduced below:

To

The Education Secretaries
All UTs except Chkg.

Sub: Upgradation of scale of pay of Junior Teachers in Craft, Language, Music, Dance, Physical Education and Domestic Science from 425-640 to RS. 440-750.

Sir,

The question of upgradation of scale of pay of the following categories of junior teachers has been under consideration for some time.

- I. Junior Craft Teachers
- II. Junior Physical Education Teachers
- III. Junior Language Teachers
- IV. Junior Domestic Science Teachers
- V. Junior Music Teachers and
- VI. Junior Dance Teachers.

2. In view of the fact that recruitment to the Junior cadre of these teachers has already been stopped and that Junior teachers even at present are eligible for promotions to the Senior grades without possessing graduate qualifications, it has been decided to upgrade the scales of pay of junior teachers.

3. Accordingly, I am directed to convey the sanction of the President to the upgradation of the above mentioned posts and to the revision of pay scales from Rs. 425-15-560-Eb-20-640 to Rs. 440-25-500-EB-25-700-EB-25-750 subject to the following terms and conditions.

1. There will be no further recruitment to the above cadres and in future recruitment will be limited to the scale of Rs. 440-750 with strict adherence to the qualifications prescribed for posts in the scale of Rs. 440-750.

II. No claim will be entertained from the incumbents of the higher grade for pay revision in order to maintain the differential between the two categories.

III. The incumbents must have rendered 3 years service in the junior Grades.

IV. The above orders will be applicable with effect from 5.9.1981 the pay fixed under the normal rules.

V. The expenditure should be met out of the sanctioned budget of the Union Territory of Administration.

This issues with the concurrence of the integrated Finance Division vide Dy. No. 3809-0/82-IFD dated 26.3.82

Yours faithfully,

Sd/- J.P. Pati
Under Secretary to the Govt. of India

A plain reading of the above letter especially para 2 thereof would clearly indicate the reasons which prompted the Government to modify the scale of pay from Rs. 425-640 to Rs. 440-750 for the categories of teachers stated in para 1 thereof. In para 3.I, even though it is stated that there would be no further recruitment to the above cadres in future, it is also stated that the recruitment would be limited to the scale of Rs. 440-750 strictly adhering to the qualifications prescribed for posts in the scale Rs. 440-750. However we note that there was absolutely no direction that people with qualifications lower than the one prescribed for the post in the scale of Rs. 440-750 appointed between 5.9.81 and 27.3.82 - the date of issue of the said letter - would not be granted the scale of Rs. 440-750 on rendering 3 years of service in the grade of Rs. 425-640. Further no documents were produced before us to show that such a decision was taken by the Government of India. In the light of the above we are unable to support the interpretation of the respondents that Junior Language Teachers (Arabic) recruited after 5.9.81 were not entitled for the grade of Rs. 440-750 on rendering 3 years of service in grade Rs. 425-640. We hold that such an interpretation is without any basis or authority.

14. We note from item VII of the schedule attached to A-15 -Part-B Revised Pay scales for certain common categories of staff - that on the recommendations of Fifth Pay Commission Government of India specified the following replacement scales for the posts of Teaching Staff:

Sl. No.	Posts	Present Scale	Revised Scale	Para No.of
<hr/>				
<u>Teaching Staff</u>				
<u>(a) Primary School Teacher</u>				
Entry Scale	1200-30-1560-40-2040	4500-125-7000	55.259	
Senior Scale	1400-40-1600-50-2300 -6-2600	5000-150-8000	55.259	
Selection Scale	1640-60-2600-75-2900	5500-175-9000	55.259	
<u>(b) Trained Graduate Teacher/Headmaster, Primary School</u>				
Entry Scale	1400-40-1600-50-2300 -60-2600	5500-175-9000	55.259	
Senior Scale	1640-2600-75-2900	6500-200-10500	55.259	
Selection Scale	2000-60-2300-75-3200 100-3500	7500-250-12000	55.259	
<u>(c) Post Graduate Teacher/Headmaster, Middle School</u>				
Entry Scale	1640-60-2600-75-2900	6500-200-10500	55.259	
Senior Scale	2000-60-2300-75- 3200-100-3500	7500-250-12000	55.259	
Selection Scale	2000-75-2800-100-4000	8000-275-12000	55.259	
<u>(d) Vice Principal/Headmaster, Secondary School</u>				
Entry Scale	2000-60-2300-75-3200 -100-3500	7500-250-12000	55.259	
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According to the applicants, respondents relying on the above granted the revised scale of Rs. 5500-9000 to all the Arabic Language Teachers who joined prior to the applicants and who were in pre-revised grade of Rs. 1400-2600. They pleaded that when such is the case, denying them the grade of Rs. 5500-9000 was discriminatory. Respondents justified the grant of revised scale of Rs. 4500-7000 to the applicants on the plea that as the pre-revised scale of Rs. 1400-2300 had not been included in the Schedule to part-B (Annexure A-15), only the normal replacement scale of Rs. 4500-7000 as

contained in R-1 First Schedule Part-A only would be admissible. We have already held in the foregoing paragraphs that the applicants are entitled for the grade of Rs. 1400-2600 on completion of three years of service in grade Rs. 1400-2300. Hence the respondents' above plea cannot be supported. We hold that the applicants are entitled for the same revised scale of Rs. 5500-9000 as had been given to other Arabic Language Teachers who were in grade Rs. 1400-2600.

15. One of the impugned orders A-13 dated 28.11.98 reads as under:

To

The Headmaster, Govt. High School
Agatti.

Yulet F.No. 1/13//91-GHSA dated 4th July 98 regarding fixation of pay Thajudeen Arabic Teacher (1) On scrutiny found fixation made incorrect (.) According to order P.No. 18/34/97-edn dated 28th March 98 Thajudeen entitled 1400-2300 only for which replacement scale is Rs. 4500-7000 (.) Thajudeen not entitled for 1400-26000 or replacement scale 5500-9000 under part B(.) Furnish authority for fixing pay Thajudeen in 1400-2600 and 5500-9000 immediately

Edu/ac

F.No. 25/3/97-Edn/Ac(1) Administration of the
Union Territory of Lakshadweep
Directorate of Education
Kavaratti, dated 28.11.98

Post copy in confirmation with Service Book of shri M.P. Thajudeen Language Teacher (Arabic). The receipt of the Service Book may be acknowledged early.

Copy to Headmaster in all Islands.

Sd/-
Saral Mandran
Director of Education

16. It is evident from the above that the applicant Thajudeen was not given the revised scale of Rs. 5500-9000 for the reason that he was entitled to the grade of Rs. 1400-2300 only and the corresponding replacement scale was Rs. 4500-7500. In the light of our finding that the

applicants are entitled for the pay scale of Rs. 1400-2600 on completion of three years of service as stated in the proceeding paragraphs, the above A-13 impugned order cannot be sustained and is liable to be quashed and set aside.

17. We note that the applicant in O.A. No. 587/99 had earlier approached this Tribunal by filing O.A. No. 618/98. As per A-5 order dated 27.7.98 of this Tribunal respondents were directed to consider his case and grant the benefits granted to the applicants in O.A. No. 839/95. We find that in this applicant's case also, the respondents proposed to withdraw the benefits granted to him by A-7 order dated 15.10.98, by A-9 order dated 29.1.1999 pursuant to A-8 directions of the first respondent. A-8 directions dated 28.11.1998 is A-13 impugned order in O.A. 1742/98 which has been held by us as not sustainable. Therefore, the applicant in this O.A. is entitled for similar treatment as the applicants in O.A. No.1742/98.

18. In the light of the detailed analysis given in foregoing paragraphs and in the conspectus of the facts and circumstances we are of the view that the applicants in these Original Applications are entitled for the reliefs sought for. Accordingly

(i) We quash and set aside A-13 order issued by the first respondent in O.A. 1742/98 (which is A-8 impugned order in O.A. 587/99), A-14 order dated 4.12.98 in O.A. No. 1742/98 and A-9 order dated 29.1.1999 in O.A. 587/99.

(ii) We declare that the applicants in these two Original Applications are entitled to the pay scales as granted by A-11 and A-12 orders in O.A. 1742/98 and A-7 order in O.A. 587/99 and the same are not liable to be taken away by the respondents by any further orders.

(iii) We further declare that the applicants are entitled for replacement scale of Rs. 5500-9000 corresponding to the pre-revised scale of Rs. 1400-2600 with effect from 1.1.1996 and

(iv) the respondents are directed to give the consequential benefits arising from (i) to (iii) above to the applicants in the two Original Applications subject to only the restriction of the period as stated in A-8 order of this Tribunal in O.A. 839/95 dated 21.3.1997.

18. The two Original Applications viz. O.A. No. 1742/98 and O.A. No. 587/99 stand disposed of as indicated above with no order as to costs.

Dated the 13th August, 2001.

Sd/-
(G.RAMAKRISHNAN)
ADMINISTRATIVE MEMBER

Sd/-
(A.M.SIVADAS)
JUDICIAL MEMBER

List of Annexures referred to in this order.

O.A.No. 1742/98

- A1 True copy of Telegram F.No.25/3/97-Edn/AC(1) dated 28.11.1998 issued by 1st respondent to all Headmasters of Islands
- A2 True copy of circular F.No.5-44/82-Sch.6 dated 27.3.1982 issued by Govt. of India
- A4 True copy of judgment dated 9.3.88 in TAK 11/87 of the CAT, Madras Bench
- A5 True copy of circular F.No. 18/54/82-Edn dated 17.3.86 issued by the 2nd respondent.
- A6 True copy of the letter No. F.5-44/82-UTI dated 16.6.88 issued by the Govt. of India.
- A-7 True copy of the proceedings F.No.6/1/88-Edn(2) dated 8.3.1988 issued by the 2nd respondent.
- A-8 True copy of the judgment dated 21.3.97 in O.A. No. 839/95 by the CAT, Ekm Bench.
- A-9 True copy of the judgment dated 21.8.98 in OP No. 15005/98 of the Hon'ble High court of Kerala.
- A-10 True copy of the proceedings F.No. 18/34/97-Edn dated 28.3.1998 issued by the 2nd respondent.
- A-11 True copy of the order F. No. 5/1/94-GHSA/179 dated 21.4.98 issued by the 7th respondent.
- A-12 True copy of the order F.No. 1/15/97-GHSA dated 13.4.98 issued by the 5th respondent.
- A-13 True copy of Telegram F.No. 25/3/97-Edn/AC(1) dated 28.11.98 issued by the 1st respondent to all Headmasters of Island
- A-14 True copy of order No. 1/5/3/97-GHSA dated 4.12.98 issued by the 5th respondent.
- A-15 True copy of the relevant portions of part-B of CCS (Revised Pay) Rules, 1997.
- R-2 A true copy of letter No. F 5-14/82-UTI dated 16.6.98 issued by the 3rd respondent.
- R3 A true copy of the relevant schedule prescribing qualification for TGT issued by the 2nd respondent.
- R-5 A true copy of the order F.No.18/36/99/Ed dated 4.6.99 issued by the 2nd respondent.

O.A.No. 587/99

- A-1 True copy of the relevant portion of the Recruitment Rules for the post of Language Teacher (Arabic) in the U.T. of Lakshadweep.

- A2 True copy of the judgment dated 21.3.97 in O.A. No. 839/95 of the CAT, Ekm Bench
- A-4 True copy of the representation dated 8.4.98 submitted by the applicant before the second respondent.
- A-5 True copy of the judgment dated 27.4.98 in O.A. No. 618/98 by the CAT, Ekm Bench
- A-6 True copy of the order F.No. 18/30/98-Edn dated 31.8.98 issued by the second respondent.
- A-7 True copy of the order F.No. 2/4/97-98-GHSK(1) dated 15.10.98 issued by the 4th respondent.
- A-8 True copy of the Telegram F.No. 25/3/97-Edn/AC(1) dated 28.11.98 issued by the first respondent, Administration, UT of Lakshadweep.
- A-9 True copy of the order No.F No.2/4/97-98-GHSK dated 29.1.99 issued by the 4th respondent.
- A-11 LTrue copy of the proceedings F.No.3/8/95-HSM dated 5.6.89 issued by the Headmaster, U.T. of Lakshadweep, Govt. High School, Minicoy.
- A-12 True copy of the order No. 2/20/87-GHSK dated 3.11.92 issued by the Headmaster, Govt. High School, Kadamat.

CERTIFIED TRUE COPY

Date

Deputy Registrar