

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO. 609 OF 2008

Tuesday, this the 12th day of January, 2010

CORAM:

**HON'BLE Mr. GEORGE PARACKEN, JUDICIAL MEMBER
HON'BLE Mr. K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

Sudheesh K.B
(Post Graduate Teacher) (Commerce)
(Service was dispensed with)
MGSS Androth, Union Territory of Lakshadweep
Residing at Ram Nivas
Vaikkom, Kottayam ... **Applicant**

(By Advocate Mr.P.V.Mohanan)

versus

1. The Administrator
Union Territory of Lakshadweep
Kavaratti ...
2. The Director
Department of Education
Union Territory of Lakshadweep
Kavaratti ... **Respondents**

(By Advocate Mr.S.Radhakrishnan)

The application having been heard on 12.01.2010, the Tribunal on the same day delivered the following:

ORDER

HON'BLE Mr. GEORGE PARACKEN, JUDICIAL MEMBER

The applicant alongwith similarly placed five others had earlier approached this Tribunal, vide OA 163/06. They were all working on contract basis from 2005 onwards. They sought a direction from this Tribunal to regularize their services as Post Graduate Teacher in the Department of Education in the Union Territory of Lakshadweep with all consequential benefits. The aforesaid OA was allowed vide Annexure A-3 order dated 21.09.2007 with the following direction :-



" We are, therefore of the considered view that the Union Territory Administration shall take up the matter with the Ministry of Home Affairs as had been done in the case of Trained Graduate Teachers in 1998, for taking a policy decision in the matter to consider the appointment of those Post Graduate Teachers, who have been continuously working for a period of more than two years on a regular basis, even if their initial appointments were made on contract basis. The Recruitment Rules may also be reviewed to enable regular appointment of qualified personnel irrespective of nativity at least for some time more, in the context of our observations above. Till such consideration is made and a final decision is taken, we direct that the applicants herein shall be allowed to continue on the terms and conditions as stipulated in the contract and their services shall not be dispensed with till such a final decision is taken."

2. Respondents have carried out the aforesaid order before the Hon'ble High Court in judicial review vide W.P.(C) 34762/07 which is still pending. However, vide interim order dated 28.11.2007, the Hon'ble High Court stayed the aforesaid order of this Tribunal for three months. Subsequently, the stay has been extended from time to time. The Hon'ble High Court has also directed the respondents not to terminate the services of the applicants in the aforesaid OA except to accommodate regular hands. Thereafter, it is understood that the respondents have retained two of the applicants, viz., Shri Shihabudheen and Shri Aneesh Kumar.
3. In the above circumstances, the applicant has made Annexure A-8 representation to the respondents that he shall also be treated as similarly placed and should be retained in service till regular appointments are made.
4. However, respondents in their reply has submitted that applicant has been working as Post Graduate Teacher in Commerce on contract

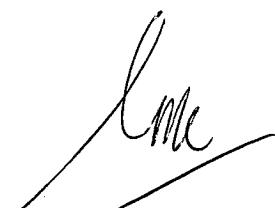


basis and out of the 45 posts of Post Graduate Teachers which have been sanctioned in 2008, there is no posts in the Commerce category.

5. The learned counsel for applicant has refuted the aforesaid contention of the Respondents regarding availability of vacancies.

6. We have heard Mr.Biju, learned counsel for applicant and Mr.S.Radhakrishnan, learned counsel for respondents. Now the question is regarding the availability of vacancies of Post Graduate Teachers in Commerce category. The Respondents shall reassess the number of vacancies of Post Graduate Teachers in the said category in view of the fact that the applicant has been working on contract basis as a Post Graduate Teacher in Commerce from 2005. They shall also consider his case for retaining him on contract basis in preference to freshers subject to availability of vacancies and communicate the decision to him within a period of 30 days from the date of receipt of a copy of this order. There shall be no order as to costs.

Dated, the 12th January, 2010.



K GEORGE JOSEPH
ADMINISTRATIVE MEMBER



GEORGE PARACKEN
JUDICIAL MEMBER

vs