

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA 615/99

Monday the 17th day of January, 2000.

CORAM

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

P. Mohammed
S/o Attakkoya
Lecturer in English
Jawaharlal Nehru College
Kadamat.

...Applicant.

(By advocate Mr M.R.Rajendran Nair)

Versus

1. The Administrator
Union Territory of Lakshadweep
Kavarathi.
2. The Director of Education
Union Territory of Lakshadweep
Kavarathi.
3. Union of India represented by
Ministry of Home Affairs
New Delhi.

...Respondents.

(By advocate Mr P.R.Ramachandra Menon, ACGSC)

The application having been heard on 17th January, 2000,
the Tribunal on the same day delivered the following:

O R D E R

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

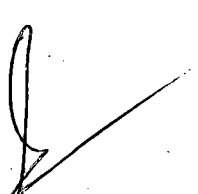
Applicant seeks to quash A-4 to the extent it relates to him, to declare that he is a regularly appointed Lecturer in the J.N.College, Kadamath and to direct the respondents to treat him as a regularly appointed and confirmed lecturer with effect from the date of successful completion of his probation in the post of Lecturer.

2. The applicant while working as a Graduate Assistant Teacher was appointed as a Lecturer in English at the J.N. College, Kadamath as per order dated 13-8-93 issued by the first respondent. He was sponsored by the Lakshadweep Employment Exchange. While working as a Lecturer, he was appointed as a Post Graduate Teacher on regular basis as per order dated 30-8-94 by the second respondent. In the said order, it is stated that the applicant was working in the post of Lecturer

in the deputation vacancy. He had put in 17.5 years of teaching service when he was appointed as Lecturer. If he had not been appointed as a Lecturer, he would have been promoted as Assistant Headmaster. In the college where he is working, there is only pre-degree class. As per order dated 19-5-99, he has been reverted to the post of Post Graduate Teacher.

3. Respondents contest the OA contending that there are four posts of Lecturer (English) in the Junior College in Lakshadweep against which four persons were already appointed. Of these four posts, one post fell vacant in 1993 on account of appointment of one person viz. P.S. Attakoya, regular Lecturer (English) in M.G.Collegem Andrott as Subject Expert (English) on deputation basis in the Directorate of Education, Kavarathi. The applicant's appointment is, therefore, as a result of a vacancy that arose due to deputation of a regular hand and is against a deputation vacancy. The applicant who was working as Graduate Assistant (regular) in Government High School, Kadamat submitted a representation as a departmental candidate for appointment to the deputation vacancy of Junior Lecturer (English) or as subject Expert in English. From the same it is clear that the applicant was well aware that the vacancy was a deputation one. The Employment Exchange also sponsored the name of the applicant only as there was no other qualified local S.T.Candidate. He was appointed on a temporary basis on the deputation vacancy.

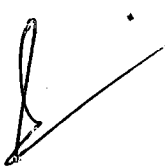
4. The posts of Lecturer in the two Junior Colleges have been declared as a dying cadre. Pre-degree courses are being converted into higher secondary courses and hence only Post Graduate Teachers are required. So the Administration is not in a position to consider the request of the applicant.



5. The question to be considered is whether the applicant was given the posting as Lecturer in a deputation vacancy or he was appointed on a regular basis.

6. A-1 is the order of appointment of the applicant. There it is clearly stated that he is appointed on temporary basis and posted at J.N.College, Kavarathi against the existing vacancy on the terms and conditions of Central Civil Services (Temporary Service) Rules, 1965 on a pay scale of Rs. 1640-2900. A-4 is the impugned order. There it is stated that the applicant, a lecturer in English on deputation is repatriated and posted as Post Graduate Teacher at the Government Senior Secondary School, Kavarathi against the existing vacancy.

7. A-2 dated 30-8-94 says that the applicant, a TGT now working as Lecturer in J.N.College, Kadamat in a dputation vacancy is promoted as PGT (English) on regular basis (against the reserved vacancy) and posted at Government Senior Secondary School, Kavarathi in the existing vacancy and is permitted to continue in the post of Lecturer in J.N.College, Kadamat. From A-2 it is quite clear that the applicant was on deputation. If the statement in A-2 that the applicant was on deputation as Lecturer in J.N.College, was false, in the normal course, the applicant would have submitted his objection to that statement in A-2 which has not been done admittedly. If the case of the applicant is accepted that he was posted as Lecturer in a regular vacancy, there is no question of promoting him from the post of TGT to PGT. The applicant has not objected to his promotion as PGT from the post of TGT. One cannot be allowed to say that he has not objected to his promotion ^{from the present post} and at the same time he wants to continue in another post on a regular basis.




8. R-3 is the proceedings of the interview board.

It is stated there that there is only one post of Lecturer remaining vacant at M.G.College, Andrott consequent on the appointment of P.S. Attakoya as Subject Expert (English) on deputation that only one candidate, the applicant has been sponsored by the Lakshadweep Employment Exchange and that the interview Board has recommended him for appointment against the post of Lecturer (English). So it is clear that the appointment of the applicant is against the vacancy that has arisen consequent on the appointment of P.S.Attakoya as Subject Expert (English) on deputation. That being so, the applicant's posting can only be on deputation and not on regular basis as contended by the applicant.

9. R-1 is the representation submitted by the applicant.

There it is stated that it is learnt that a post of lecturer remains vacant at M.G.College, Androth and he may kindly be considered for the same. There is every reason to believe that when the applicant came to know that the post of lecturer was vacant at M.G.College, Androth, at the time of submission of R-1, it can only be as a result of a vacancy that has arisen due to the appointment of Shri P.S.Attakoya as Subject Expert (English) on deputation. Now the applicant cannot submit that his knowledge was only limited to the extent of vacancy and not how the vacancy has arisen.

10. The applicant was working as Lecturer in the pay scale of Rs. 1640-2900. He is posted as PGT in the same scale of pay. It is the admitted case that only pre-degree class is available in the college where the applicant is working and the applicant is posted to Senior Secondary School where plus two (+2) classes are in existence.



10. Learned counsel appearing for the applicant submitted that in A1 it is stated that the applicant will be on probation for a period of two years from the date of joining duty in the post, and therefore it is to be taken that his appointment is a regular one and not on deputation. Considering the evidence as a whole, based on the statement in A-1, it cannot be held that the applicant was not on deputation and was given a regular appointment.

11. The materials available taken as a whole will lead only to the conclusion that the applicant was on deputation and not as contended by the applicant.

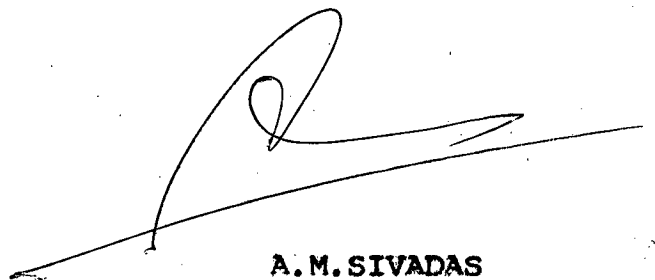
12. Learned counsel appearing for the applicant submitted that the applicant may be permitted to submit a representation to the third respondent and the third respondent may be directed to permit the applicant to continue as Lecturer till the disposal of the representation. If this is a bonafide statement, this statement could have been made when the OA was taken up for hearing on the first occasion and not at the fag end of the arguments.

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

Dated 17th January, 2000.



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER



A.M. SIVADAS
JUDICIAL MEMBER

aa.

Annexures referred to in this order:

- A-4: True copy of the office order No.18/17/98-Edm dated 19.5.99 issued by the 2nd respondent.
- A-1: True copy of the order No.18/17/P93-Edn(2) dated 13.8.93 issued by the 2nd respondent.
- A-2: True copy of the order No.18/12/94-Edn dated 30.8.94 issued by the 2nd respondent.
- R-3: True copy of the requisition dated 9.6.93 by the first respondent from the employment exchange, Kavarathi.
- R-1: True copy of the application dated 20.2.93 by the applicant.