

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

**O.A.NO.27/10
&
O.A.NO.616/09
&
O.A.NO.595/09**

Wednesday this, the 18 th day of August, 2010

CORAM:

**HON'BLE MR.JUSTICE K.THANKAPPAN, JUDICIAL MEMBER
HON'BLE MR.K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

O.A.No.27/10

Mohammed Abdul Rasheed.L.,
S/o T.P.Kidavu, Pandath, Lavanakal,
Androth, now working as Driver for
District Panchayat, Lakshadweep Office,
Kochi.

.. Applicant

By Advocate:Sri T.Ravi Kumar

vs.

1. The Administrator,
Union Territory of Lakshadweep,
Kavaratti.

2. The Director(Services),
Union Territory of Lakshadweep,
Kavaratti.

.. Respondents

By Advocate:Mr. S.Radhakrishnan

O.A No.616/09

1. T.K.Abdul Latheef,
S/o Late A.I.Kojar,
Thrinikade House,
Kavaratti, Union Territory of Lakshadweep.

2. Hassan Nellai, S/o Koyammakoya Thacherry,
Androth, Union Territory of Lakshadweep.

3. Abdul Shukoor.S/o Cheriva Kova.

Kuttithappuram, Kavaratti,
Union Territory of Lakshadweep.

.. Applicants

By Advocate: Sri CSG Nair

vs.

1. The Administrator,
Union Territory of Lakshadweep,
Kavaratti.

2. The Director(Services),
Union Territory of Lakshadweep,
Kavaratti.

.. Respondents

By Advocate: Shri S.Radhakrishnan

O.A.No.595/09

1. Mohammed Rafeeqe E.K.,
Edayakkal, Androth Island.

2. Badarul Saman.R,
Rabiyoda, Kavaratti Island.

3. Mohammed Yaseen C.H.P.
Chenam Kottiyathapura,
Amini Island.

.. Applicants

By Advocate:Sri K.B.Gangesh

vs.

1. The Administrator,
Administration of the Union Territory
of Lakshadweep, Kavaratti.

2. The Director(Services),
Administration of the Union Territory
of Lakshadweep(Secretariat), Kavaratti.

.. Respondents

By Advocate:Mr.S.Radhakrishnan

The Application having been heard on 29.07.2010, the Tribunal on 18.08/10 delivered the following:-

ORDER

HON'BLE MR.JUSTICE K.THANKAPPAN, JUDICIAL MEMBER:

All the applicants in the above three Original Applications are aggrieved by order dated 14th August,2009 issued by the Director of Services of the Administration of the Union Territory of Lakshadweep, Kavaratti. The applicants pray commonly for quashing the said order and for a direction to the respondents for completion of the selection of Staff Car Drivers on publishing the result of the test held for the purpose of filling up of the four posts of Staff Car Drivers.

2. The common facts which are necessary for the decision of the applications are that, by the notification dated 16.7.2007 applications were invited for filling up of four temporary posts of Staff Car Drivers in the pay scale of Rs. 3050-4590. In pursuance to the above notification all the applicants filed their applications and as per the call letters they have appeared for the test and they were empanelled for selection as per the panel prepared and as per the details of candidates appearing for the recruitment test for the post of Staff Car Drivers to be held on 1.6.2009. The applicants have also got a case that this notification dated 16.7.2007 is based on the recruitment rules which came into force with effect from 7.3.2005, a copy of which is also produced as Annexure A3 in O.A.No.27/2010. As per the said recruitment rules, the educational

qualification and other qualifications prescribed for the direct recruitment are that (i) 8th Standard Pass,(ii) Driving License obtained from a Competent Authority for Driving Light Motor Vehicle or vehicle of type to which recruitment is being made,(iii) Experience as a Driver for a minimum of two years (i.e. Holding Driving License for last 2 years) as well as a certificate from an employer. It is also mentioned that it is desirable to have a Driving License Commercial Certificate, Driving License Heavy Vehicle, ITI Certificate in Diesel Mechanic or Motor Mechanic. According to the applicants all the applicants are qualified as per the recruitment rules and the respondents have started their selection process. In the mean while the respondents issued the impugned letter dated 14th August,2009 cancelling the recruitment process. Aggrieved by the above letter, the applicants filed this O.A.

3. The O.As. have been admitted by this Tribunal and in pursuance to the notice ordered, the respondents have filed their reply statement. On receipt of the reply statement, the applicants also filed rejoinder reiterating the averments contained in the O.A.

4. We have heard the counsel appearing for the applicants Mr.T.Ravikumar,Mr.C.S.G.Nair and Mr.K.B.Gangesh. We have also heard Mr.S.Radhakrishnan appearing for the respondents in all the cases. The counsel for the applicants submits that as per the notification issued by the respondents dated 16.7.2007 the applicants have applied for the post and their applications were received and steps were already taken for

the selection. As the selection has already been under process, the remaining part is only for the publication of the results of the test. If so, the stand taken in the impugned letter dated 14th August, 2009 is irregular and illegal. Further the counsel submits that the stand taken in the letter dated 14th August, 2009 that as the recruitment rules stood at the time of notification of the vacancies the educational qualification prescribed is 8th Standard Pass, whereas as per the recommendation of the 6th Central Pay Commission Report which commenced with effect from 1.1.2006 prescribes a minimum educational qualification of SSLC/Matriculation or equivalent, is not applicable to the case of the applicants. Further it is the stand taken by the counsel appearing for the applicants is that as the recruitment rules stood when the vacancies were occurred, was to be followed and if so, without amending or even any amendment after the selection process started, has no application. To substantiate these points, the applicants rely on the judgments of the Apex Court reported in AIR 1983 SC 852 in Y.V.Rangaiah and others v.J.Sreenivasa Rao and others; 2002 SCC(L&S)720, Maharashtra State Road Transport Corpn. and Others vs. Rajendra Bhimrao Mandve and others and 2007(2)KLT 551(SC), Mohanan Pillai v. State of Kerala.

5. Resisting the contention of the counsel appearing for the applicants, Shri S.Radhakrishnan, counsel for the respondents relying on the reply statement held on behalf of the respondents submits that as the selection committee had not finalised the result of the test conducted and in the mean while the 6th Pay Revision Rules based on

the 6th Pay Commission Report came into force and to be implemented by the Union Territory Administration and the select list will also have to be accepted by the Appointing Authority and then only it can be published. The counsel further submits that after the commencement of the 6th Pay Commission Report and the promulgation of the Central Civil Services (Revised Pay) Rules, 2008 any notification which has been issued should be considered as inoperative. If so, the letter dated 14th August, 2009 is justifiable by which the notification dated 16.7.2007 has been cancelled. As per the present revised rules for appointment to Group-C and Group-D, the minimum educational qualification has to be taken as pass in SSLC/Matriculation or equivalent, whereas the recruitment rules at the time when the notification was issued, prescribe only an educational qualification of 8th Standard Pass. Hence the cancellation of the notification is justifiable. That apart, the counsel submits that the principles laid down by the Apex Court in the judgments relied on by the applicants are not applicable to the facts of the case in hand.

6. On an anxious consideration of the arguments of the counsel appearing for the parties and on perusal of the records, the question to be decided is that whether the respondents are justified in cancelling the notification dated 16.7.2007 is correct or not. Admittedly the vacancies are to be filled up by direct recruitment to four posts of temporary Staff Car Drivers. At the time of issuance of the notification inviting applications the recruitment rules prescribe an educational qualification of 8th Standard Pass and this recruitment rule has not been

amended in spite of the recommendation made by the 6th Pay Commission Report. As per the principles laid down by the Apex Court in Y.V.Rangaiah's case(cited supra) it can be seen that the vacancies which occurred prior to the amended rules would be governed by the old rules and not by the amended rules. Admittedly the notification dated 16.7.2007 is issued under the existing recruitment rules and as per the recruitment rules, the educational qualification prescribed is 8th Standard pass. It is also not disputed that the vacancies which occurred prior to the commencement of the 6th Central Civil Services (Revised Pay) Rules, 2008 and also prior to the guidelines issued by the Ministry of Personnel, Training & Pensions as published in the O.M. dated 24th March, 2009. Modified rules, if any, for Staff Car Drivers incorporating required amendments based on 6th Central Civil Services (Revised Pay) Rules, 2008, has no application as far as the vacancies notified as per the notification dated 16.7.2007. Hence, we are of the view that as far the four vacancies notified should be proceeded with as per that notification and the test already decided to be conducted on the basis of the panel prepared for eligible candidates for appearing for such test, should be proceeded with. The principles laid down by the Apex Court in Rangaiah's case has been reiterated in the subsequent judgments of Maharashtra State Road Transport Corpn. and also in Mohanan Pillai's cases. In the above circumstances and on the reasons stated in this order, we quash the letter dated 14.8.2009 and direct the respondents to proceed with the selection and appointment of Staff Car Drivers in accordance with the notification dated 16.7.2007 under the recruitment rules which stood as

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on that date. With the above directions, the Original Applications stand allowed to the extent indicated. No order as to costs.

(K. GEORGE JOSEPH)
MEMBER(A)

(JUSTICE K. THANKAPPAN)
MEMBER(J)

/njj/