

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 79 of 2004

Friday, this the 3rd day of December, 2004

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. S.K. HAJRA, ADMINISTRATIVE MEMBER

1. K. Khalid,
S/o (late) B.C. Kasmi,
Keelacheri House, Amini Island,
UT of Lakshadweep.
2. A. Jabar,
S/o (late) Nallakoya Puthiyath,
Attaloda House, Anroth Island,
UT of Lakshadweep.
3. B. Pookoya,
S/o Abdulla Koya,
Beeriyyadam House, Amini Island,
UT of Lakshadweep.
4. Manzoor M,
S/o (late) Muthukoya C,
Mappilate House, Anroth Island,
UT of Lakshadweep.

....Applicants

[By Advocate Shri P.V. Mohanan]

Versus

1. The Administrator,
UT of Lakshadweep, Kavaratti.
2. Union of India represented by the
Secretary to Government,
Ministry of Agriculture,
Department of Animal Husbandry and
Dairy, New Delhi.
3. Ismath Hussain,
S/o Mohammed Koya Haji,
Nedumthiruvu, Kiltan Island,
UT of Lakshadweep.

....Respondents

[By Advocate Shri S. Radhakrishnan (R1)]
[By Advocate Shri TPM Ibrahim Khan, SCGSC (R2)]
[By Advocate Shri M.P. Krishnan Nair (R3)]

The application having been heard on 3-12-2004, the
Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

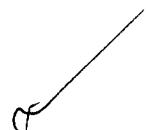
Applicants, four in number, who have been till
22-4-1999 working as Stockman on contract basis on a
consolidated pay of Rs.4000/- per month, have jointly filed

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this application seeking to set aside a provision in the Recruitment Rules to Group C posts of Stockman/Stockman Compounder/Poultry Vaccinator in the Animal Husbandry Department under the Lakshadweep Administration (Annexure A-8) which prescribe the age limit for direct recruitment as 18-25 years and also the notification dated 16th January, 2004 (Annexure A-10) to the extent the upper age limit is prescribed as 25 years. Applicants in this case are aged 33, 36, 33 and 33 years respectively and by virtue of this offending provision in the Recruitment Rules as also in the notification they are not eligible to apply for the Group C posts. It is alleged in the application that right from the year 1995 onwards the applicants had been working as Stockman in the department after a due process of selection although not on regular basis, that in Annexure A7 letter dated 2-3-2001 a decision was taken to revise the recruitment qualifications and scale of pay only and not the upper age limit and that the present provision in the Recruitment Rules fixing the age limit as 18-25 years as against the age limit of 18-30 years prescribed in the Recruitment Rules of the year 1994 is arbitrary, irrational and violative of Articles 14 and 16 of the Constitution. It is further alleged that in all other departments the age limit for direct recruitment being 18-30 years the action on the part of the official respondents in fixing the upper age limit at 25 years in the case of the impugned Recruitment Rules alone is totally discriminatory and arbitrary. With these allegations, the applicants seek the following reliefs:-

"i) To call for the records leading to the amended recruitment rule dated 01.06.2001 at Annexure A.8 and set aside the following clause contained in Clause 6 namely;

"Age limit for direct recruits 18-25 years", and may be read as "Age limit for direct recruits: 18-30 years".



- ii) To call for the records leading to A.10 notification dated 16.01.2004 and set aside clause 3 namely;
"Age limit: 18-25 years" and may be read as "18-30 years".
- iii) To direct the respondents to consider the claim of the applicants for selection and appointment to the post of stock man in Animal Husbandry Department pursuant to Annexure A.10 notification.
- iv) Any other appropriate order or direction as this Hon'ble Tribunal deem fit in the interest of justice."

2. As there was an interim order of stay in finalizing the selection, the 3rd respondent who would be affected has got himself impleaded.

3. The 1st respondent has sought to justify the impugned provision in the Recruitment Rules and consequential provision in the notification on the ground that the mistake of fixing the age limit 18-30 years in the case of Group C staff in the Lakshadweep Administration committed in the year 1994 came to light and to make the age limit in tune with the directions contained in the Ministry of Personnel, Public Grievances and Pensions, Office Memorandum dated 18-3-1988, wherein as a guideline it was stipulated that the age limit for appointment to Group C and D posts should be 18-25 years, an amendment has been incorporated in the new Recruitment Rules. The 1st respondent contends that the provision does not offend Articles 14 and 16 of the Constitution and is neither arbitrary nor discriminatory calling for judicial intervention. It has also been contended that the OA is barred by limitation.

4. The 3rd respondent has also filed a statement opposing the grant of the relief in this application.

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5. We have with meticulous care gone through the entire pleadings as also the materials brought on record and have heard the persuasive arguments of Shri P.V.Mohanan, learned counsel of the applicants, Shri S.Radhakrishnan, learned counsel of the 1st respondent, Shri TPM Ibrahim Khan, learned counsel of the 2nd respondent as also Shri M.P.Krishnan Nair, learned counsel of the 3rd respondent.

6. First we deal with the question of limitation. Although the recruitment rule is dated 1-6-2001 and the applicant has been filed only in the year 2004, the OA has already been admitted taking note of the fact that the applicants sought relief when the notification Annexure A-10 made them ineligible to apply. We find that the claim of the applicants is not barred by limitation.

7. The vires of the provision in the Recruitment Rule by which the age limit for recruitment to the Group C posts of Stockman/Stockman Compounder/Poultry Vaccinator in the Animal Husbandry Department under the Lakshadweep Administration fixing the age limit for direct recruitment between 18 to 25 years is under challenge. The sole ground for challenge is that in the prior recruitment rule of the year 1994 the age limit was 18-30 years and there was no valid reason why this has been changed in the new recruitment rule. It has also been contended by the applicants that the prescription of age limit of 18-25 years in the Animal Husbandry Department alone, while such a prescription is not there in the recruitment rules in other departments, is also arbitrary and violative of the equality provisions enshrined in the Constitution.

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8. Learned counsel of the official respondents argued that the provisions regarding the age limit in the Recruitment Rules for Group C posts of Stockman/Stockman Compounder/Poultry Vaccinator in the Animal Husbandry Department under the Lakshadweep Administration is being applied uniformly to all and therefore there is no merit in the argument that it offends Articles 14 and 16 of the Constitution. We find considerable force in this argument. There will be hostile discrimination if the same is not applied uniformly to all similarly situated persons and persons belonging to homogeneous class is segregated and dealt with differently. Such a situation is not available in this case. Therefore, we do not find that the recruitment rule is vitiated by violation of Articles 14 and 16 of the Constitution.

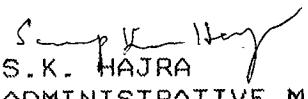
9. The next point is whether the provision in the Recruitment Rule fixing the age limit at 18-25 years is arbitrary. The official respondents in their reply statement have explained the reason for the change that in the guidelines issued by the nodal Ministry, the Ministry of Personnel, Public Grievances and Pensions, it had been stipulated that while framing the Recruitment Rules to the posts of Group C and D, the age limit for direct recruitment should be fixed at 18-25 years and this having been not noted while framing the Recruitment Rules of the year 1994, the Recruitment Rule has been suitably amended to rectify the mistake. We are, therefore, satisfied that there was no arbitrariness in amending the Recruitment Rules. The learned counsel of the respondents also referring to the pleadings submitted that the Recruitment Rules for Group C and D in other departments where similar mistake of fixing the age limit between 18-30 years was



committed have also been amended in conformity with the general guidelines. We, therefore, do not find any occasion to interfere with the impugned Rules.

10. In the light of what is stated above, finding no merit, the Original Application is dismissed leaving the parties to bear their respective costs.

Friday, this the 3rd day of December, 2004


S.K. HAJRA
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

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