

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.83/2001.

Wednesday this the 27th day of November 2002.

CORAM:

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR.T.N.T.NAYAR, ADMINISTRATIVE MEMBER

1. K.Cheriya Koya,
Junior Lecturer in Economics,
Mahatma Gandhi College,
Androth,
Union Territory of Lakshadweep.
2. P.I.Mohammed Iqbal,
Lecturer in Zoology,
M.G.College, Androth,
Union Territory of Lakshadweep. Applicants

(By Advocate Shri VD Balakrishna Kartha)

Vs.

1. Union of India, represented by the
Secretary to Government,
Ministry of Human Resources Development,
Department of Education, New Delhi.

The Administrator,
Union Territory of Lakshadweep,
Kavarathi.
3. The Director of Education,
Union Territory of Lakshadweep,
Kavarathi. Respondents

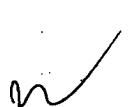
(By Advocate Shri S.Radhakrishnan (R.2&3)
(By Advocate Shri T.A.Unnikrishnan, ACGSC(R-1)

The application having been heard on 27th November, 2002, the Tribunal on the same day delivered the following:

O R D E R

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

The applicants two in number were Lecturers in the Junior College viz., Mahatma Gandhi College, Androth in Lakshadweep. They filed this application challenging the order dated 31.10.2000 (A7) rejecting their claim for placement in the Senior Scale and Selection Grade in terms of the judgement of the Apex Court in Civil Appeal No.913/1987 as also the order of the



Government of India, Ministry of Human Resources Development, Department of Education dated 22.7.88. The applicants have prayed for setting aside A-7 for a declaration that since the applicants are entitled for entry scale of lecturers as held in A-1 judgement and A-4 letter they are also entitled to all the consequential benefits arising out of A2 and A-3 orders and for a direction to the respondents to dispose of the representation A-6.

2. The respondents in their reply statement resisted the claim of the applicant on the ground that although they were placed in the entry scales applicable to University Lecturers as per the Court's orders they are not entitled to the Senior Scale and Selection Grade as they do not satisfy the criterion prescribed in the UGC recommendations. They also contended that the applicants as Government servants have been granted the benefit of successive pay revisions and have been placed in the scales applicable to the posts in terms of the Vth Central Pay Commission's recommendation.

3. We have gone through the pleadings and material placed on record and have heard the learned counsel on either side. The very same impugned order in this case, A-7 order was the subject matter of the applicants in O.A.1202/2000 and the very same claim was made by similarly situated persons in the said O.A. This Tribunal has vide order dated 26.6.2002 after considering the rival contentions held that, the applicants were not entitled to be placed in the Senior Scale and Selection Grade, as they did not satisfy the criterion laid down in the UGC recommendations

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for Teachers of Institutions for Higher Learning. The O.A. was dismissed. Although the applicants in O.A.1202/2000 challenged the decision of the Hon'ble Tribunal before the Hon'ble High Court of Kerala in O.P.28681/2002, that O.P. was dismissed as the Hon'ble High Court did not find any reason to disagree with the view taken by the Tribunal.

4. Since the identical issue agitated by the applicants in O.A.1202/2000 has been decided by the judgement of this Tribunal which has been upheld by the High Court of Kerala in O.P.28681/2002, this application is also liable to be dismissed. Learned counsel of the applicant invited our attention to the observations in the first paragraph of the order of the High Court of Kerala in O.P.28681/02 which reads as follows:

..."For getting benefits as per 4th and 5th Pay Commissions they ought to have made representation before the Government. If entitled to, the petitioners may make representation before Government for granting the said benefits."

5. Learned counsel submitted that in this case also a similar observation may be made. We asked the counsel of the applicant as to what benefit under the IVth and Vth Central Pay Commissions' report has been denied to the applicants for them to make a representation and for the respondents to give them an order. Learned counsel of the applicant could not say what benefit has been denied to them. In the impugned order it has been stated as follows:

".....The employees of Lakshadweep Administration including the Petitioners are Central Government employees and are entitled to the scales of pay as per the recommendations of the Central Pay Commissions set up by the Government of India from time to time in the past. The scale of pay as recommended by the Fifth Pay Commission has duly been granted to the petitioners in totality."

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6. It is evident from the impugned order as also from the pleadings in the reply statement that the benefit of scale of pay in terms of the Vth Central Pay Commission Report has already been given to the applicants in this case. Therefore, we do not find any occasion to make any such observation in this case especially when there is no claim for any benefit under the IVth and Vth Central Pay Commissions' recommendations made in this O.A.

7. In the light of what is stated above the application fails and the same is dismissed leaving the parties to bear their own costs.

Dated the 27th November, 2002.


T.N.T. NAYAR
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

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A P P E N D I X

Applicant's Annexures:

1. A-1: True copy of the Judgement dated 10.8.1982 in O.P.No.2662/1980-A of the Hon'ble High Court of Kerala.
2. A-2: True copy of the Common Judgement dated 29.4.97 in Civil Appeal No.913/1987 and connected cases, rendered by the Hon'ble Supreme Court of India.
3. A-3: True copy of the Order F.No.1-21/87-U.I. dated 22.7.1988 of the 1st respondent issued to Education Secretaries of All States/Union Territories.
4. A-4: True copy of the Order F.No.1-22/97-U.I. dated 27.7.1988 of the 1st respondent issued to Education Secretaries of All States/Union Territories.
5. A-5: True copy of the order dated 2.4.4.2000 in O.A.No.417/2000 rendered by this Hon'ble Tribunal.
6. A-6: True copy of the representation submitted by the applicants before the 2nd respondent on 6.5.2000.
7. A-7: True copy of the Order F.No.55/24/96-Edn. dated 31.10.2000 issued by the 2nd respondent.
8. A-8: True copy of the Order F.No.36/8/98-Edn. dated 14.6.2001 issued by the 3rd respondent.

Respondents' Annexures:

1. R-2a&b: A true copy of order G.O.(MS) No.58/97/H.Edn. dated 6.5.97 issued by the Principal Secretary to Government and the communication converting the Junior colleges into senior secondary Schools.
2. R-2c: True copy of letter No.F.1-11/87-(CPP) dated October, 1991 to the Registrar, Calicut University issued by the Under Secretary, University Grant Commission.
3. R-2d: True copy of the Notification No.F.3-1/2000(PS) of March, 2000.
4. R-2e: True copy of order G.O.(P) No.79/90/H.Edn dated 27.3.90 issued by the Commissioner and Secretary to Government.

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