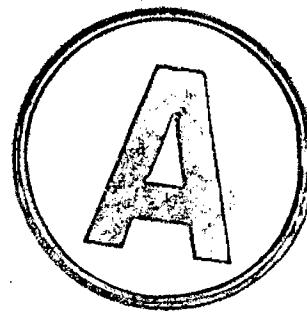


CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH



O.A.Nos. 1271/2000, 37/2001, & 91/2001

FRIDAY, THIS THE 1st DAY OF OCTOBER, 2004.

C O R A M

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. H.P. DAS, ADMINISTRATIVE MEMBER

O.A. 1271/2000

A.K. Beebi W/o P.I. Koya
Craft Teacher,
Boarder Area Project
Deputy Collector's Office
Minicoy.

By advocate M/s Sukumaran & Usha

Applicant

Vs.

1. Union of India represented by
the Secretary to Government
Ministry of Social Welfare
New Delhi.
2. The Chairman
Lakshadweep State Social Welfare
Advisory Board,
U.T. of Lakshadweep
Kavaratti.
3. The Chairman
Central Social Welfare Board
Samaj Kalyan Bhavan
B-12, Institute South of IIT
New Delhi-110 016.

Respondents.

By Advocate Mr. C. Rajendran for R 1 & 3
By Advocate Mr. S. Radhakrishnan for R-2

O.A. 37/2001

1. U.P. Faridabi D/o P.P. Nallakoya Thangal
Gram Sevika, Border Area Project
Andrott, Lakshadweep.
2. A.C. Bambathibi D/o T. Ahammed
Craft Teacher, Border Area Project
Andrott, Lakshadweep.
3. M.P. Attakoya S/o P. Asina
Gram Sevika, Border Area Project
Andrott, Lakshadweep.
4. A.P. Seedijubairathbi D/o Ummadakoya
Gram Sevika, Border Area Project
Andrott, Lakshadweep.

5. C.T. Safiabi W/o K.P. Syed Mohammed Koya
Gram Sevika, Border Area Project
Kalpeni, Lakshadweep.
6. A.M. Khadeeja W/o L.P. Kasmikoya
Gram Sevika, Border Area Project
Kalpeni, Lakshadweep.

By Advocate M/s Sukumaran & Usha

Applicants

vs

1. Union of India represented by
the Secretary to Government
Ministry of Social Welfare
New Delhi.
2. The Chairman
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Advisory Board,
U.T. of Lakshadweep
Kavaratti.
3. The Chairman
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Samaj Kalyan Bhavan
B-12, Institute South of IIT
New Delhi-110 016.

by Advocate Mr. C. Rajendran For R 1 & 3
Advocate Mr. P.R. Ramachandra Menon for R=4
O.A. 91/2001

Respondents.

1. P.N. Nainabi
W/o Ahammed
Gram Sevika, Border Area Project
Amini
2. P. Sheema W/o Cheriya Koya
Gram Sevika
Border Area Project
Amini

By Advocate M/s Sukumaran & Usha

vs.

1. Union of India represented by
the Secretary to Government
Ministry of Social Welfare
New Delhi.
2. The Chairman
Lakshadweep State Social Welfare
Advisory Board,
U.T. of Lakshadweep
Kavaratti.
3. The Chairman
Central Social Welfare Board
Samaj Kalyan Bhavan
B-12, Institute South of IIT
New Delhi-110 016.

By Advocate Mr. K. Shri Hari Rao for R1
Advocate Mr. P.R. Ramachandra Menon for R-4
Advocate Mr. S. Radhakrishnan for R-2

The Applications having been heard on 7.6.2004 the Tribunal delivered the following on 1.10.2004.

ORDER

HON'BLE MR. H.P. DAS, ADMINISTRATIVE MEMBER

The applicants are regular employees of the Lakshadweep State Social Welfare Advisory Board (LSSWAB) working in Border Area Projects in the Lakshadweep group of Islands. They are aggrieved as their salaries and bonus have not been paid since 2000. Revision of their pay on 1.1.1996, though made in pursuance of the accepted recommendation of the Vth Pay Commission has not been given effect to. The applicants contend that they were all appointed by the LSSWAB and later regularised in their posts in the Border Area Projects run by the LSSWAB.

2. The respondents agree that the applicants were appointed in the Border Area Projects on adhoc basis and were subsequently regularised by the Lakshadweep State Social Advisory Board. As per the schematic pattern approved by the Central Social Welfare Board, budget proposals are prepared and submitted by the Border Area Projects. These proposals are placed before the Standing Committee of the Lakshadweep State Social Welfare Advisory Board and then forwarded to the Central Social Welfare Board with its recommendations for final approval and sanction of 66.7% of the establishment expenditure by the CSWB and 33.3% by the Lakshadweep Administration. Non-release of funds by the CSWB has been one of the causes of delay in disbursement since May, 2000.

CSWB has not released the required funds the Border Area Projects have spent in excess of the approved budget. Further, the CSWB has approved the implementation of the recommendations of Vth Pay Commission from 1.4.1999, while the Border Area Projects have carried out revision of pay w.e.f. 1.1.1996. Even though the Lakshadweep Administration has no objection to the implementation of the Vth Pay Commission recommendations and has agreed to bear the additional burden, no disbursement could be made without the approval of the CSWB. They have also clarified that a proposal for merger/absorption of the staff of Border Area Projects in the existing vacancies of the Integrated Child Development Scheme (ICDS) network is under consideration. They aver that payments from May 2000 to December, 2000 have in the meantime been made. In regard to the service conditions of the applicants, the respondents state that the applicants, though regularised in their posts in Border Area Projects, are temporary non-government employees and they cannot claim benefits on par with Government employees.

3. Heard. Given the administrative configuration and the funding arrangement the specific question to be decided is as to who should bear responsibility for ensuring that the basic service conditions are fairly regulated. We find from the meagre information supplied by the parties that the Border Area Projects are autonomous bodies, registered under the Societies Registration Act for the purpose of availing grants from the Central Social Welfare Board and the Lakshadweep Administration in the ratio of 2:1. We also find that the Lakshadweep State Social Advisory Board has regularised the applicants under its orders. Annexure A2 of

OA 37/20001, Annexure A2 shows that in respect of some employees of the Border Area Project Andrott, payments of arrears of salary for different periods have been released by the Lakshadweep Social Welfare Advisory Board. Similar information are not available in other OA files. But on the basis of available evidence, it would be fair to assume that the LSSWAB as employer is responsible for the regulation of the service conditions of the applicants. That being so, we must say that all is not well with the manner in which the service conditions of all those like the applicants employed in the Border Area Projects are regulated. If the Border Area Projects are merely grantee bodies, then why should the Lakshadweep Social Welfare Advisory Board have taken upon itself the responsibility of regulating the services of adhoc project employees? Having done that, how can the LSSWAB now sit back bereft of any responsibility for the predicament of the applicants? If the LSSWAB is merely a fund regulating body set up under the Central Social Welfare Board, then how can the Central Social Welfare Board be oblivious of the manner in which its grants are being used? The Lakshadweep Administration too is a grantor of funds, but apparently without any responsibility or interest in the utilisation of funds. So, while holding the LSSWAB responsible for regulation of service conditions of those employed in the border Area Projects, we cannot absolve the Central Social Welfare Board and the Lakshadweep Administration of the responsibility of ensuring that those employed in the affairs of the State, under their stewardship are atleast paid for their work. We desist from addressing the broader question of regularity of status of these employees, or of the need for parity in terms and conditions of employment with

government servants. The limited question before us is whether the State or its agencies can engage persons like the applicants in the name of state sponsored Social Welfare Schemes in the manner they have done and take work from them without paying for it on the plea that either grant administration has gone away or the audit report has been delayed. We hold that the State or its agencies cannot indulge in irresponsible conduct of this nature and must be held squarely liable for the impasse they have themselves created.

4. In the context of discussions above we dispose of the Applications with the following directions to the respondents individually and jointly as relevant to the directions:

(i) The Lakshadweep State Social Welfare Advisory Board may take stock of the present position of the applicants and those similarly situated, employed in the Border Area Projects and prepare an exhaustive list of those who have not received their salaries and related legitimate dues, arrive at the requirement of funds for discharging the liability upto 30.9.2004 and make a proposal to the Central Social Welfare Board and the Lakshadweep administration for allocation of funds to meet the liability in the ratio of 2:1. This exercise must be completed within two months from the date of issue of these orders.

(2) The Lakshadweep Administration and the Central Social Welfare Board within a month from receipt of the proposal of the LSSWAB would allocate their shares of the funds for discharging the liability.

(3) On receipt of allocation the Lakshadweep Administration through its Secretary in charge of Social Welfare would arrange to disburse the arrears to the applicants and those similarly placed within a month from the receipt of such allocation.

(4) In computing the arrears, pay and allowances in the revised scale (Vth Pay Commission) and bonus, etc. would be fixed in accordance with Vth Pay Commission recommendation from 1.1.1996.

(5) The respondents would be at liberty to merge the staff of Border Area Projects in the ICDS network or take any administrative measure they consider appropriate in line with prevailing policy, with the clear understanding that until then no regular employee of the Border Area Project would be deprived of the legitimate compensation for the work done.

5. We award the exemplary cost of Rs. 1500 to be paid by the Lakshadweep State Social Welfare Advisory Board at the rate of Rs. 500/- to each group of applicants of each Application. The amount may be deposited with the Court within a period of 15 days for disbursement to the applicants through their counsel.

Dated 1.10.2004.

Sd/-
H.P. DAS
ADMINISTRATIVE MEMBER

Sd/-
A.V. HARIDASAN
VICE CHAIRMAN

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