

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH**

**ORIGINAL APPLICATION NO:93/2008.  
DATED THE 26th DAY OF JUNE, 2009.**

**CORAM:**

**HON'BLE Mr GEORGE PARACKEN, JUDICIAL MEMBER  
HON'BLE Ms K NOORJEHAN, ADMINISTRATIVE MEMBER**

Sajitha Babu K K,  
Hind Babu Nivas, Kalpeni,  
Union Territory of Lakshadweep ... Applicant

By Advocate Mr V D Balakrishna Kartha

V/s

- 1 Union of India,  
Represented by the Administrator,  
Union Territory of Lakshadweep,  
Kavaratti.
- 2 The Director of Education,  
Union Territory of Lakshadweep,  
Kavaratti. ... Respondents

By Advocate Mr S Radhakrishnan

This application having been heard on 26.06.2009 the Tribunal on the same day:delivered the following

**(ORDER)**

**HON'BLE Mr GEORGE PARACKEN, JUDICIAL MEMBER**

In this case neither the applicant nor his counsel has ~~not~~ appeared on 14.11.2008, 9.12.2008, 16.12.2008, 20.1.2008, 2.3.2009, 12.3.2009, 30.3.2009 and 1.5.2009.

In our considered opinion, the applicant is not interested in pursuing with this case. Hence, this OA is dismissed for non prosecution. There shall be no orders as to costs.

  
K.NOORJEHAN  
ADMINISTRATIVE MEMBER

  
GEORGE PARACKEN  
JUDICIAL MEMBER

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**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**ERNAKULAM BENCH**

**Original Application No. 93 of 2008**

**Friday , this the 31st day of July, 2009**

**CORAM:**

**Hon'ble Mr. George Paracken, Judicial Member**  
**Hon'ble Mr. K. George Joseph, Administrative Member**

Sajitha Babu K.K., D/o. P.  
Kunjumohamed Koya, Hind  
Babu Nivas, Kalpeni, Union  
Territory of Lakshadweep.

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**Applicant**

**(By Advocate – Mr. V.D. Balakrishna Kartha - Not present)**

**V e r s u s**

1. Union of India, represented  
by the Administrator, Union Territory  
of Lakshadweep, Kavaratti.

2. The Director of Education, Union  
Territory of Lakshadweep, Kavaratti.

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**Respondents**

**(By Advocate – Mr. S. Radhakrishnan)**

The application having been heard on 31.7.2009, the Tribunal on same day delivered the following:

**O R D E R**

**By Hon'ble Mr. George Paracken, Judicial Member -**

The applicant has filed this OA seeking the following reliefs:

"i) to call for the records leading to Annexure-A5 selection list and declare that the selection list is invalid as the procedure of selection is violated.

ii) Direct the respondent to select the candidates for the post of TGT (M) afresh, strictly following the direction in Annexure A3 and A4.


iii) To issue such other appropriate order or direction as this Hon'ble



Tribunal may deem fit, just and proper in the circumstances of the case.


iv) to grant the costs of the OA."

2. According to the applicant, she was a candidate for selection to the post of Trained Graduate Teacher (Malayalam) [for short TGT (M)] notified vide Annexure A-1 notification dated 19.5.2007 wherein it has been stated that the selection will be purely on academic merit of the applicants and also by giving consideration to their experience in the job and for higher qualifications. According to her, while the procedure for selection in terms of the aforesaid notification was going on, the respondents issued the Annexure A-2 notification dated 9.10.2007 for several other vacancies including the vacancy of TGT (M) which has already been notified. According to the said notification the selection of the candidates for the post of TGT (M) was to be made on the basis of the result of the written test, academic merit and interview. The applicant has submitted that the Annexure A-3 order dated 5.9.2005 by which the respondents have issued instructions for recruitment, selections to be on the basis of written test, for all Group-C and B posts to be filled up by direct recruitment, has been modified by Annexure A-4 order dated 28.4.2007 to the extend that the department may conduct selection of candidates for group-C posts on the basis of educational qualifications/experience only without conducting tests/interviews wherever the recruitment rules for the post in question do not provide for holding any test/interviews. Applicant has also alleged that the Annexure A-5 select list was published in violation of the rules and procedures in as much as they have interviewed only five candidates short



listed on the basis of written test for the two vacancies of TGT (M) as against the requirement of 8 candidates as contained in the instructions issued vide Annexure A-3 dated 5.9.2005.

3. In the reply statement, the respondents have admitted that in terms of Annexure A-1 notification dated 19.5.2007 selection of candidates was to be made purely on academic merit giving consideration to the experience for the job and for higher qualification. However, when the selection committee met, they realized that the method of recruitment for the post of TGT (M) was through eligibility test and interview as per recruitment rules. Therefore, without holding any selection process, the selection committee brought the matter to the notice of the Administrator who in turn directed the respondents' department to proceed with the selection strictly in accordance with the recruitment rules. According to the Annexure A-4 order dated 28.4.2007, the department concerned may conduct the selection of candidates of Group-C posts on the basis of educational qualifications/experience only without conducting tests/interviews, wherever the recruitment rules of the posts in question do not provide for holding of any tests/interviews. However, according to the "Lakshadweep Administration, Education Department, Headmaster J.B. Schools; Trained Graduate Teachers/Warden and Primary School Teachers (Class III posts) Recruitment Rules, 2002" issued on 4.9.2002 (Annexure R1/a), the TGTs are recruited only after holding an eligibility test and interview. They have also submitted that TGT (M) posts notified vide Annexure A-1 and Annexure A-2 notifications were for two different posts and in the



Annexure A-2 notification it was clarified that the applications submitted in response to Annexure A-1 notification would be considered along with the fresh applications received by the department and the selection will be through a written test and interview. The applicant has also attended the test but she did not succeed. The respondents have further submitted that since the process of recruitment to both the posts advertised by Annexure A-1 notification and Annexure A-2 notification were similar, a combined selection procedure was conducted for both those posts. On the basis of the Annexure A-1 notification dated 19.5.2007, 23 applications were received and on the basis of Annexure A-2 notification dated 9.10.2007, three more applications were received. Thus the first set of 23 applications were considered for the first post advertised and all the 26 applications were considered for the second post. The written test was conducted as per NCTE guidelines and a short list of candidates was prepared. The rank lists for the 2 posts were also prepared separately. Since for both the lists same candidates secured the first five positions as per merit, the same was published accordingly.

4. Since the learned counsel for the applicant was not available for the arguments, we did not have the opportunity to hear him. However, we have perused the documents available on records carefully. We have also heard Shri S. Radhakrishnan, learned counsel for the respondents.

5. From the facts narrated above, it is clear that the applicant was under the misapprehension that there was only one post of TGT (M). In fact by the

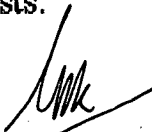


two notifications, two posts were advertised separately. Initially the respondents have decided to fill up the post without written test and interview but when they realized that for selection to Group-C post of TGT (M), written and interview was necessary as per Recruitment Rules, they have stated so in the second notification. Shri S. Radhakrishnan has specifically pointed out that both the notifications were issued subsequent to Annexure A-4 notification dated 28.4.2007 according to which the selection is to be conducted in accordance with the recruitment rules which prescribes written test as well as interview. The other apprehensions raised by the applicant in this OA are on the basis of her first apprehension that there was only one post. Therefore, those apprehensions are also misplaced. In our considered opinion the respondents have conducted the selection for the two posts of TGT (M) notified vide Annexure A-1 and A-2 notifications dated 19.5.2007 and 9.10.2007 respectively strictly in accordance with the rules and there were no irregularities. As pointed out by Shri Radhakrishnan, the applicant had already appeared in the test and failed, therefore, she is also estopped from challenging the procedure for selection later as held by the Apex Court in Chandraprakash Tiwari Vs. V. Sakunthala – 2002 (6) SCC 127, Madanlal Vs. Jammu & Kashmir – 1995 (3) SCC 486, Dhananjay Malik Vs. State of Utharanjal – 2008 (2) KLT 969 and Marripati Nagaraja Vs. Government of A.P. - 2007 (11) SCR 506.

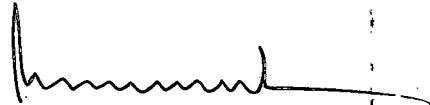
6. In the above facts and circumstances of the case, we find that there is no merit in this OA. Accordingly, the same is dismissed. There shall be no



order as to costs.



(K. GEORGE JOSEPH)  
ADMINISTRATIVE MEMBER



(GEORGE PARACKEN)  
JUDICIAL MEMBER

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**CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH**

O.A.No.93/08

Monday this the 4<sup>th</sup> day of January 2010

**C O R A M :**

**HON'BLE Mr.GEORGE PARACKEN, JUDICIAL MEMBER**  
**HON'BLE Mr.K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

Sajitha Babu K.K.,  
D/o.P.Kunjumohamed Koya,  
Hind Babu Nivas, Kalpeni,  
Union Territory of Lakshadweep.

...Applicant

(By Advocate Mr.V.D.Balakrishnan Kartha)

**V e r s u s**

1. Union of India represented by the Administrator,  
Union Territory of Lakshadweep, Kavaratti.

2. The Director of Education,  
Union Territory of Lakshadweep, Kavaratti.

...Respondents

(By Advocate Mr.S.Radhakrishnan)

This application having been heard on 4<sup>th</sup> January 2010 the Tribunal on the same day delivered the following :-

**ORDER**

**HON'BLE Mr.GEORGE PARACKEN, JUDICIAL MEMBER**

This O.A was considered earlier and it was dismissed on merits by this Tribunal vide order dated 31.7.2009. The applicant has challenged the aforesaid order before the Hon'ble High Court of Kerala vide W.P.C.No.25169/09 (S) wherein the following judgment has been passed :-

" This Writ Petition is filed against Ext.P9 order passed by Central Administrative Tribunal, Ernakulam Bench in O.A.No.93 of 2008. The said O.A was filed to declare Annexure A-5 selection list as invalid since there was violation of the prescribed selection procedure, in the matter of selection to the post of TGT (M). The Tribunal as per the order under challenge dismissed the application. Paragraph 4 of the order reads as hereunder :-





4. *Since the learned counsel for the applicant was not available for the arguments, we did not have the opportunity to hear him. However, we have perused the documents available on records carefully. We have also heard Shri.S.Radhakrishnan, learned counsel for the respondents.*

2. Learned standing counsel for the Administration points out that the petitioner has to thank herself since there was no appearance effectively on several occasions and the Tribunal had once dismissed the application for non-prosecution and it had been restored thereafter on the request of the petitioner and yet, at the time of hearing, there was no representation. Hence the Tribunal was constrained to pass an order, without hearing the petitioner. Having heard both sides, we are inclined to grant another opportunity to the petitioner to present her case before the Tribunal, in the interest of justice, particularly in the view of the submission made by the learned counsel for the petitioner that on the day fixed by this court, the party will be represented effectively by the counsel. Therefore, we set aside Ext.P9 order and remit the matter to the Tribunal. The parties will appear before the Tribunal on 14.12.2009. We make it clear that the Tribunal shall dispose of the matter within another two months."

2. When the matter was taken up for hearing today, counsel for the applicant submitted that the Annexure A-6 representation of the applicant dated 4.2.2008 was not actually considered by the 1<sup>st</sup> respondent, namely, the Administrator, Union Territory of Lakshadweep. He further submitted that the applicant wants to bring some additional facts to the notice of the said respondent and would like to make a fresh representation.

3. In view of the above submission, liberty is granted to the applicant to make a fresh representation to the 1<sup>st</sup> respondent placing all the relevant facts which she consider necessary. If such a representation is received, the 1<sup>st</sup> respondent shall consider the same and pass a detailed and speaking order in accordance with the rules.



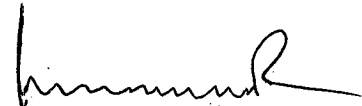
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4. With the aforesaid direction, this O.A is disposed of. There shall be no order as to costs.

(Dated this the 4<sup>th</sup> day of January 2010)



**K. GEORGE JOSEPH**  
**ADMINISTRATIVE MEMBER**



**GEORGE PARACKEN**  
**JUDICIAL MEMBER**

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