

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

**Original Application No. 108 of 2010**

**Tuesday, this the 09<sup>th</sup> day of November, 2010**

**CORAM:**

**Hon'ble Mr. Justice K. Thankappan, Judicial Member**  
**Hon'ble Ms.K Noorjehan, Administrative Member**

Shafeek Ali T.P  
 Thiruvantha Pura House  
 Kavaratti Island

..... **Applicant**

**(By Advocate – Mr. K.B Gangesh)**

**V e r s u s**

1. The Administrator  
Administration of the Union Territory  
of Lakshadweep, Kavaratti
2. The Superintendent of Police  
Union Territory of Lakshadweep  
Kavaratti
3. Aazar Mohammed Kassim. N  
Nangammada House, Androth Island
4. Shajeer M.P  
Meelapura House, Kavaratti
5. Fathahulla Z.M  
Zuhra Manzil, Kadmath Island
6. Nasarulla P.I  
Vanz Manzil  
Shantipath Road
7. Ibrathula P  
Pandaram House, Amini Island.

..... **Respondents**

**(By Advocate – Mr.S.Radhakrishanan for R 1-2 & Mr.T.H Abdul  
 Azeez for R 3-7)**

This application having been heard on 09.11.2010, the Tribunal on the same day delivered the following:

### ORDER

By Hon'ble Mr. Justice K. Thankappan, Judicial Member -

1. The applicant filed this Original Application seeking the following prayers :-

“1. Declare that respondents 1 & 2 are liable to complete the selection process for the post of Constable (Lascar) under Costal Security in Lakshadweep Police Department strictly on the basis of the recruitment process held on 03.10.2009 on the basis of Annexure A2 communication issued by the 2<sup>nd</sup> respondent.

2. Direct the respondents 1 & 2 to complete the selection process as prayed for in relief No.1 and to publish the select list within a time limit stipulated by this Hon'ble Tribunal.

3. To issue such other order or direction as this Hon'ble Tribunal may deem fit in the facts and circumstances of this case.

4. To award costs to the applicant.”

2. The applicant has appeared for the test on 03.10.09 and he was qualified to be selected. But as the respondents conducted subsequent test for the same post on 13.11.09, the applicant apprehends that the select list has been increased by giving a second chance to those candidates who have already appeared in the test in a previous date and by which his chance for selection has been deprecated. Hence the applicant filed this Original Application.

3. In pursuance to the notice ordered by this Tribunal the party respondents, namely, Respondents No.3-7 and the official respondents No.1-2 filed their respective reply statements. Thereafter, the applicant filed a rejoinder and produced two more documents, namely, two letters dated 27.03.10 and 06.10.09. On receipt of the rejoinder, the official respondents filed an additional



reply statement and produced a list of the candidates who appeared for the test held on 03.10.09 and subsequent dates.

4. We have heard the counsel appearing for the applicant, Mr.K.B Gangesh and Mr.S.Radhakrishanan, the counsel appearing for the official respondents and Mr.V.A Ajmal for Mr.T.H Abdul Azeez, the counsel appearing for the party respondents. The main case canvassed by the counsel for the applicant is that as the recruitment process started from 29.09.09 and ended on 07.10.09 giving another chance for candidates to appear for the test on 13.11.09 is irregular and illegal. Thus the entire action of the official respondents are irregular and the O.A has to be allowed by directing the official respondents to finalise the selection based on the test conducted on 03.10.09. The second case canvassed by the counsel for the applicant is that giving a second chance on 13.11.09 to those candidates who already participated in the test on 29.09.09 and who could not participate on 03.10.09 and those who failed in the previous test is a sufficient reason to interfere with the selection list now going to be published by the respondents on the basis of the final test conducted, including that of the test conducted on 13.11.09. The above contentions of the counsel appearing for the applicant have been met by the counsel appearing for the official respondents Mr.S.Radhakrishanan and the other counsel appearing for the party respondents taking the stand that no second chance was given for any candidate who appeared for the test in any of the previous dates where as some of the candidates who could not appear on 03.10.09 had been given an opportunity on 13.11.09. This was on the basis of a general notification taking into consideration of the fact that from 29.09.09 to 03.10.09 the candidates could not reach at Kavaratti from different parts of the Island as well as from main land due to bad weather. Hence the applicants who could not appear for the test on 03.10.09 had been given a chance on 13.11.09. Further the learned counsel Mr.S Radhakrishanan submits that the tests, both physical endurance test as

as

well as medical, have to be conducted for three different posts namely for the post of Head Constable (Seacunny), Head Constable (Greaser) and Constable (Lascar). A notification issued for filling up of these three posts and test was scheduled to be held on different dates from 29.09.09. The candidates who applied for different posts might have appeared on different posts for different dates but as far as the post of Constable (Lascar) is concerned only the test was conducted on 03.10.09. However, it is found that out of 107 candidates applied for the said post namely the post of Constable (Lascar) only 42 candidates appeared on 03.10.09 due to the bad weather condition in the Island especially in Kavaratti. <sup>Hence</sup> ~~Hence~~ by a general notification those candidates who could not appear on previous dates as far as the Constable (Lascar) was concerned had been given a chance for participating in the test on 13.11.09 and out of the remaining 65 candidates only 7 turned up on 13.11.09 and they participated in the test and their names were also included in the list showing the candidates who qualified for selection. It is also the case of the respondents that the candidates who applied for the other posts namely Head Constable (Seacunny) or Head Constable (Greaser) and who appeared on that test might have appeared on 13.11.09 for the post of Constable (Lascar) on the basis of the notification issued. It is also the case of the respondents that for the post of Constable (Lascar), test was conducted only on 03.10.09 and 13.11.09. In the above circumstances counsel submits that there is no merit in the contention of the applicant.

5. Same view was also supported by the counsel appearing for the party respondents. Further counsel for the party respondents relies on a certificate given by the Master of Vessel HSC, Viringili, a copy of which was produced as Annexure R-3A.

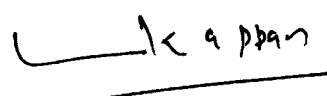
6. In the light of the contentions raised by the counsel appearing for the parties

and on perusal of the documents produced before this Tribunal, this Tribunal has to see that whether the applicant is entitled for any relief which he claimed in the Original Application or not. It is an admitted fact before us that as per Annexure A-1 notification three posts are to be filled up namely Head Constable (Greaser) Head Constable (Seacunny) and Constable (Lascar). For the above selection physical endurance test and medical test has been scheduled to be held on different dates starting from 29.09.09 and it is also an admitted fact that on 03.10.09 the test was conducted for the post of Constable (Lascar) whereas on 29.09.09 and other dates test was conducted for other different posts. The main case set up by the applicant is that as far as the post of Constable (Lascar) is concerned the test was conducted already on 03.10.09 in which the applicant also appeared and only few appeared and he was found qualified and subsequently on 13.11.09 a chance was given to those candidates who already appeared and failed in the test conducted on 03.10.09 or on previous dates namely from 29.09.09 to 03.10.09. It is noted that the three posts were notified by the same notification and the test were scheduled to be held on different dates starting from 29.09.09. Further it is to be noted that test for Constable (Lascar) scheduled to be held on 03.10.09 and out of 107 candidates who applied for the post of Constable (Lascar) only 42 could appear on 03.10.09 and on the basis of the general notification issued by the department and a chance was given to those candidates who could not participate in the test due to the bad weather and non-availability of conveyance to Kavaratti on the relevant dates. A chance was given to have the test on 13.11.09 and out of the remaining candidates only 7 appeared and their names were included in the list produced by the respondents as Annexure R-2. A reading of Annexure R-2 would show that out of the 107 candidates directed to be present for test only 42 turned up and all the others were found absent. The absence of the candidates was due to the bad weather in the Island and non-availability of the conveyance to reach Kavaratti and this was fully explained in the reply statement filed on behalf of the official respondents. Considering the explanation given by the official respondents and on the stand taken in reply statement we are of the view that the contentions of the applicant that those who appeared and failed once in the test had been given a second chance so as to lessen the chance of the applicant for selection is not correct. It is to be noted that the Physical Endurance Test as well as medical test was scheduled to be held from 29.09.09

onwards to different posts and it may be possible for the candidates to appear on 29.09.09 or any subsequent dates to any other posts than that of the Constable (Lascar) and that by itself is not a reason to hold that two chances given on the basis of the notification issued by the department to any particular candidate who appeared once. It is also to be noted that as per Annexure R-3A, it is evident that during the relevant time there was bad weather in the Island and there was lack of conveyance to reach Kavaratti. In the above circumstances we feel that any test conducted or notified to be held on 13.11.09 would not affect the right of the applicant to be selected as he has already appeared for the test and become qualified. If so, the present stand taken by the applicant is not enough to conclude that any irregularity has been done and this Tribunal has to interfere in the matter. Accordingly we are of the considered view that there is no violation of any rule or principles of natural justice or fundamental right of the applicant. Hence, the O.A is devoid of any merit and it is liable to be dismissed. Accordingly O.A stand dismissed. No costs.

(Dated this the 09<sup>th</sup> day of November 2010)

  
**(K.NOORJEHAN)**  
**ADMINISTRATIVE MEMBER**

  
**(JUSTICE K. THANKAPPAN)**  
**JUDICIAL MEMBER**

**SV**