

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.114/2004

Friday this the 25th day of November 2005.

CORAM:

**HON'BLE MR. K.V.SACHIDANANDAN, JUDICIAL MEMBER
HON'BLE MR. N.RAMAKRISHNAN, ADMINISTRATIVE MEMBER**

1. Dr.Hussain Ouge,
Veterinary Assistant Surgeon,
Department of Animal Husbandry,
Kavarathi., residing at
Boduathri Village P.O.,
Minicoy Island,
Union Territory of Lakshadweep.
2. Dr. P.P. Attakoya,
Veterinary Assistant Surgeon,
Department of Animal Husbandry,
Kadamath., residing at Puthiyapura,
Kadamath 683 559.
3. Dr. A.A.Mohammed,
Veterinary Assistant Surgeon,
Department of Animal Husbandry,
Minicoy, residing at:
Aougothiathirige, Minicoy 682 559. Applicants

(By Advocate Shri M.R.Hariraj)

Vs.

1. Union of India, represented by
the Secretary, Department of
Animal Husbandry & Dairying,
Ministry of Agriculture, New Delhi.
2. Administrator, Union Territory of Lakshadweep,
Kavarathi. Respondents

(By Advocate Shri. TPM Ibrahim Khan, SCGSC(R-1)

(By Advocate Shri P.R.Ramachandra Menon, (R-2)

The application having been heard on 25.11.2005
the Tribunal on the same day delivered the following

ORDER (Oral)

HON'BLE MR. KV SACHIDANANDAN, JUDICIAL MEMBER

The applicants 3 in number were joined service as Veterinary Assistant Surgeon

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(VAS for short) on ad hoc basis w.e.f. 18.3.1986, 18.6.1986 and 4.6.1984 respectively. The respondents had conducted selections to the post of VAS on regular basis through the Union Public Service Commission (UPSC for short) in 1988-94 but, the applicants were not selected. The applicants 1 and 3 filed O.A.1334/94 and 1338/94 which were also dismissed. The vacancies under the second respondent in the cadre of VAS remained unfilled in spite of six different attempts made by UPSC to fill up the posts through selection. The 2nd respondent has recommended for the regularization of applicants in the post of VAS in public interest considering the fact that, they are qualified and on the basis of their long service. But, the 1st respondent rejected the claim of the applicants for regularization. The same was challenged before this Hon'ble Tribunal in O.A.1049/00 and this Tribunal disposed of the same by its order dated 19.12.2000, permitting the applicants to make a representation before the 1st respondent and in turn directing the 1st respondent to consider and pass orders on receipt of the same. It was also directed that, in the meanwhile, the applicants may be allowed to continue. The 1st applicant made a representation dated 17.1.2001 which was also rejected by the 1st respondent. Again the applicants had filed O.A.500/2001 challenging the said rejection and that O.A. was disposed of by order dated 18.3.2003(A3) permitting the applicants to make further representation and directing the respondents to consider the same. Again the representation made by the applicants was rejected by order dated 3.2.2004(A-1). Aggrieved by Annexure A-1, A-5 and A-8, the applicants filed this O.A. seeking the following main reliefs:

- i. Quash A-1, A-5 and A-8.
- ii. To declare that the applicants are entitled to have their services regularised as Veterinary Assistant Surgeons with effect from the date of initial appointment and to direct the respondents to consider the applicant for regularization accordingly.
- iii. Alternatively, to direct the respondents to treat the applicants as Temporary Employees under CCS(Temporary Service) rules and to grant them all consequential benefits including quasi permanency and confirmation and financial benefits.

2. Shri M.R. Hariraj, learned counsel appeared for the applicant, Shri TPM Ibrahim

Khan, learned SCGSC appeared for the 1st respondent and Shri P.R.Ramachandra Menon, Standing Counsel for Lakshadweep Administration appeared for the 2nd respondent.

3. When the matter came up before the Bench, learned counsel for the applicant submitted that, even though in A-4 order dated 12.6.1995 in O.A.1334/94 and 1338/04 and A-6 order in O.A.1049/2000 regularization was not granted by this Tribunal, considering the vast experience of the applicants in the post for more than two decades, they are entitled for regularization.

4. In O.A.500/2001, this Court has directed the applicants to make a detailed representation. The operative portion of the said order is reproduced as under:

“We are of the considered view that this request is reasonable. Therefore, we dispose of this application permitting the applicants to make a detailed representation to the 1st respondent projecting the points in favour of their claim for regularization within a period of one month from today and directing the 1st respondent that if such representations are received the same shall be considered taking into account the rules and instructions on the subject and the fact that the applicants are continuing in service for nearly two decades on adhoc basis and to give them an appropriate reply as early as possible. We also direct that as the applicants have been continuing on adhoc service for a long time, they shall not be replaced by any other adhoc employees. No costs.”

5. It is an admitted fact that, the earlier O.As. filed by the applicants have been dismissed stating that the applicants were not entitled for regularization. However, the counsel for applicants brought to our notice the orders A-11 and A-12 wherein the Homeopathic Physicians in the Union Territory of Lakshadweep Administration were granted almost identical benefits after relaxing the qualification prescribed for the post. In A-12 also, the Government of India, M/o Health and Family Welfare had ordered such dispensation in the case of Radiographers consist of 2 years academic study and have acquired sufficient experience while discharging their duties. The counsel for applicants prayed for consideration of applicants' case with reference to the said orders. It is also



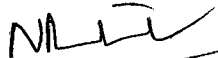
submitted that the authority who passed the impugned orders has not strictly considered the observations of this Tribunal in A-9 order.

6. At this juncture, counsel for the applicant submitted that he would be satisfied if a direction is given to the 1st respondent to consider the case of the applicants with special reference to A-11 and A-12 orders and observations in A-9 and pass appropriate orders. Counsel for the respondents submitted that they have no objection in adopting such a course of action.

7. In the interest of justice, considering the facts and circumstances of the case, we direct the applicants to make a representation to the 1st respondent within three weeks and if such a representation is received, the 1st respondent shall consider and dispose of the same within a time frame of three months from the date of receipt of the representation.

8. O.A. is disposed of as above. In the circumstances, no order as to costs.

Dated the 25th November 2005.



N.RAMAKRISHNAN
ADMINISTRATIVE MEMBER



K.V.SACHIDANANDAN
JUDICIAL MEMBER