

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**



O.A. 112/2005, 117/2005, 118/2005, 127/2005 & 131/2005

Friday, this the 2nd day of June, 2006.

CORAM:

HON'BLE MR N.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

HON'BLE MR GEORGE PARACKEN, JUDICIAL MEMBER

O.A.No.112/2005

1. P.M.Zennathunnisa Beegum,
Keelapura House,
Agati island,
Lakshadweep.

2. T.P.I.Haseena,
Thekuputhiyailam House,
Agati Island,
Lakshadweep.

Applicants

By Advocate Mr N Nagaresh

v.

1. Union Territory of Lakshadweep
represented by its Administrator,
Kavaratti, Lakshadweep.

1. Director of Education,
Union Territory of Lakshadweep,
Kavaratti, Lakshadweep.

Respondents

By Advocate Mr Shafik M.A

O.A.117/2005

P.P.Fathahulla,
S/o Hamza Aliyar,
Purathupura House,
Kiltan Island,
U.T. Of Lakshadweep.

Applicants

By Advocate Mr TC Govindaswamy

v.

1. Administrator,
Union Territory of Lakshadweep,
Kavaratti.

2. The Director of Education,
Union Territory of Lakshadweep,
(Department of Education),
Kavaratti. - Respondents

By Advocate Mr Shafik.M.A

O.A.118/2005

M.K.Thasiyabi,
D/o late Abdul Rehman,
Mariappada House,
Kalpeni, Lakshadweep. - Applicants

By Advocate Mr TC Govindaswamy

v.

1. Administrator,
Union Territory of Lakshadweep,
Kavaratti.

2. The Director of Education,
Union Territory of Lakshadweep,
(Department of Education),
Kavaratti. - Respondents

By Advocate Mr Shafik.M.A -

O.A.127/2005 :

Rasheeda Rahman,
D/o P Koya, Teacher,
Working at Minicoy Island,
Lakshadweep. - Applicants

By Advocate Mr CK Ramakrishnan

v.

1. The Administrator,
Union Territory of Lakshadweep,
PIN: 682 555.

2. Director of Education,
Union Territory of Lakshadweep,
PIN: 682 555.

3. Senior Administrative Officer,
Union Territory of Lakshadweep,
PIN: 682 555. - Respondents

By Advocate Mr Shafik M.A

O.A.131/2005

1. N Hassan,
Pallicham House,
Kavaratti Island,
Lakshadweep.

2. Shahidha Beegum K.C.
Darularham House,
Kalpeni Island,
Lakshadweep. - Applicants

By. Advocate Mr. K. Jaiju Babu

v.

1. Union Territory of Lakshadweep,
represented by its Administrator,
Kavaratti, Lakshadweep.

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

By Advocate Mr Shafik M.A.

The applications having been heard on 25.5.2006, the Tribunal on 2.6.2006 delivered the following:

ORDER

HON'BLE MR N.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

In these applications, the applicants challenge the notifications relating to the selection process concerning the appointment to the post of Trained Graduate Teacher(TGT in short)(Hindi). to the extent they have been excluded on grounds of disqualification.

2. The applications are different in certain aspects. However, the common point for adjudication relates to the question as to whether they fulfil the prescribed qualifications for the said post. For this reason, all these applications were heard together and are being disposed of by this common order.

O.A.112/06:

3. The applicants in this application responded to the notification of vacancies for TGT(Hindi) during September-October 2003. But, the second respondent issued the impugned notification A-1 dated 10.2.2004 to which was, inter alia attached a list of disqualified candidates for the said post including the applicants.

O.A.117/06:

4. The applicant in this application responded to the notification of vacancies for TGT(Hindi) on 1st September 2004. But, the second respondent issued the impugned notification A-1 dated 10.2.2005 to which was, attached inter alia a list of disqualified candidates including the applicant.

O.A.118/06:

5. The applicant in this application responded to the notification of vacancies for TGT(Hindi) on 1.9.2004. The second respondent issued the impugned notification A-1 dated 10.2.2005 to which was attached, inter alia, a list of disqualified names including the applicant.

O.A.127/06:

6. The applicant in this application responded on 19.7.2003 for consideration against the vacancies for TGT(Hindi) But, the second respondent issued the impugned notification A-5 dated 12.2.2005, putting her in the list of disqualified candidates.

O.A.131/06:

7. The applicants in this application responded to the notification of vacancies for TGT(Hindi) during September-October 2003. But, the second respondent issued the impugned notification A-1 dated 10.2.2004.

8. According to all the applicants, as per the Lakshadweep

Administration, Education Department, Headmaster, JB Schools, Trained Graduate Teachers/Warden and Primary School Teachers (Class III posts) Recruitment Rules (RR for short), 2002, (RR, for short) the educational qualifications prescribed for the posts of TGTs are as follows

8. Educational and other qualifications required for direct recruitment.

Graduate with Bachelor of Education(B.Ed) or its Equivalent with a minimum of 40% marks in each degree
 OR
 Four years integrated B.Sc. Ed. Course with a minimum of 40% marks.

9. The qualification possessed by the applicants (evidenced by the certificates) are tabulated as follows:

| Applicants' name | Academic Qualification | Training Qualification |
|---|--|----------------------------|
| <u>O.A.No.112/05</u> Zeenathunnisa Beegum and TPI Haseena | (i) SSLC (ii) Rashtra Bhasha Praveen | Diploma in Hindi Teaching |
| <u>O.A.No.117/05</u> PP Fathahulla | (i) SSLC (ii) Rashtra Bhasha Praveen | Diploma in Hindi Teaching |
| <u>O.A.No.118/05</u> MK Thasiyabi | (i) All India Senior School Certificate Examination (ii) Rashtra Bhasha Praveen | Diploma in Hindi Teaching. |
| <u>127/05</u> Rasheeda Rahman | Not available Rashtra Bhasha Praveen | Siksha Snatha |
| <u>131/05</u> N Hassan and Shahidha Beegum KC | (i) SSLC (ii) Rashtra Bhasha Praveen | Diploma in Hindi Teaching |

10. Not having identical prescribed qualifications, the applicants in O.A.112/05, 118/05 and 131/05 made representations to the respondents pointing out the equivalence of their qualifications duly recognised requesting the latter to allow them to participate in the selection process. When unsuccessful, they have approached the Tribunal in the O.As mentioned for granting appropriate reliefs. Mainly the reliefs, with minor variations, are

- i) To set aside the impugned notifications to the extent of their being excluded on grounds of disqualification.
- ii) To declare that they satisfy the requirements of educational qualifications prescribed for the TGT and
- iii) To direct the respondents to consider their candidature.

11. They rest the application on following grounds:

- i) Their qualification acquired from the Dakshin Bharath Hindi Prachar Sabha (Sabha for short) meet the requirements of the recruitment rules.
- ii) The Government of India in the Ministry of Education and Social Welfare have recognized the Rashtra Bhasha course as equal to degree examinations vide their letter No.F-9-1/79-D-1 (L) in 1979.
- iii) In any case, the recruitment rules do not exclude the qualifications possessed by the applicants.
- iv) Such an equivalence has been declared in the judgement of the Hon'ble High Court in the order reported in 2001(1) KLT 155.

12. Respondents oppose the application on the following grounds.

- i) The subject matter of this O.A has already been considered by this Tribunal in O.A.834/2003 and 1033/2003 leading to dismissal thereof vide order dated 27.6.2005 (R-1).
- ii) Any applicant should be, according to the recruitment rules a graduate and hold a B.Ed. Degree with 40% mark in each degree.
- iii) The letter of the Ministry of Education as quoted by the applicants does not declare the equivalence between Praveen and B.A. It merely states the equivalence in the standard of Hindi in both these qualifications.

13. Heard the learned counsel for both sides and perused the documents carefully produced by them.

14. The single point for decision is whether the applicants are in possession of the qualifications prescribed in the Recruitment Rules. As already referred to above, the prescribed qualifications are reproduced as follows:

A Graduate with Bachelor of Education(B.Ed.) or its equivalent with the minimum of 40% marks in each degree
OR

Four years integrated B.Sc. Ed. Course with minimum of 40% marks

The applicants have no claim relating to possession of the alternative qualification of B.Sc. Ed. Hence, reverting to the first qualification mentioned above, it is seen that it has the following components:

- First, the applicants should be a graduate.
- Secondly, such graduate applicant should have a B.Ed. or its

equivalent.

- And the applicants' should be having 40% in each of the degrees.

The applicants' claim is that, instead of graduation as mentioned above, they are in possession of the qualification of Praveen issued by the Sabha which has been, according to them, declared equivalent to a degree. It is seen that no qualification, equivalent to graduation has been fixed in the qualifications prescribed above. So long as such fixation is absent, no amount of declaration by any authorities can make the applicants as possessors of the prescribed qualification of graduation. Even if it is conceded for argument sake (without admitting) that it is such an equivalent qualification, the next additional criterion is the possession of a B.Ed degree or its equivalent. In fact, prescription of equivalent for B.Ed and non-prescription of equivalent for graduation is significant, underlining the need for possession of graduation and nothing else as the first qualification. On the question of equivalence, no documents have been brought to our notice to show that the diploma they are in possession of in Hindi teaching is equivalent to B.Ed. It might be true that the respondents might not have given a list of qualifications equivalent to B.Ed. But, except a blunt averment that the Sabha qualification combined with diploma in teaching should be equal to B.Ed, nothing else produced in evidence to establish such equivalence. Even if this argument is considered, it will lead to a curious situation in which the Praveen qualification is counted twice, first as a stand-alone qualification once for establishing possession of a qualification equivalent to graduation and secondly, in combination with diploma in teaching as equivalent to B.Ed.

15. The applicants relied on the orders of the Hon'ble High Court in 2001 (1) KLT 155 to sustain their case. It is seen that in the said case, the question of qualification prescribed for appointment to the post of Headmaster under the Kerala Education Rules(KER for short) was, inter alia considered. The most important point to be noted is that the qualification so prescribed have four alternatives which include Praveen of the Sabha among others. It should be immediately noted that no such set of equivalent qualifications has been prescribed in the instant case. Besides, a similar set of equivalent qualifications have been prescribed for "Training qualifications" also under the KER, a feature missing in the present case. In any case, what was adjudicated in that case was under the KER inapplicable to the Laccadivian context whereas here the recruitment rules are distinctly different.

16. Reference has already been made to the O.A.834/2003 and 1033/2003(R-1) in which this Tribunal was precisely seized of identical questions. The Tribunal considered the short question whether the prescribed qualifications were met by the applicants therein and also whether it was the domain of the courts to go into the question of declaring equivalence in qualifications and came to the conclusion the applicants therein had no case and the O.As were dismissed.

17. Under these circumstances, we find that the primary qualification is of graduation which none of the applicants possesses. They also do not possess second qualification of B.Ed. or equivalence and they have not been able to prove that the qualification they possess are accepted equivalence to the B.Ed. Qualification.

18. Hence the O.As are dismissed with no benefits of the interim orders passed which are vacated hereby. No costs.

Dated, the 2nd June, 2006.

GEORGE PARACKEN
JUDICIAL MEMBER

N.RAMAKRISHNAN
ADMINISTRATIVE MEMBER

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