

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM**

Original Application No. 118 of 2013

Thursday, this the 21st day of November, 2013

C O R A M :

**HON'BLE Mr. JUSTICE A.K. BASHEER, JUDICIAL MEMBER
HON'BLE Mr. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

Basheer, S/o. Ismail,
Ashammakkada House, Amini Island,
U.T. Of Lakshadweep (Masseur/Pharmacist,
Ayurvedic Dispensary at PHC, Kadamat) ... Applicant.

(By Advocate Mr. R. Ramdas)

v e r s u s

1. The Administrator,
Union Territory of Lakshadweep,
Kavaratti – 682 555
2. The Mission Director (NRHM),
Administration of the U.T of Lakshadweep,
Office of the Mission Director(NRHM),
Directorate of Health Services,
Kavaratti – 682 555 Respondents.

(By Advocate Mr. S. Radhakrishnan)

This application having been heard on 21.11.13, the Tribunal on the same day delivered the following :

ORDER

HON'BLE Mr. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER

This O.A is filed challenging the office order dated 04.02.2013 at Annexure A-7 stating that the individuals working against the post of Pharmacist/Masseurs in various Ayurvedic Dispensaries in the Lakshadweep Islands under AYUSH/NRHM purely on contract basis are not qualified and not eligible for holding the respective posts as per the existing Recruitment

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Rules and as per notification dated 04.10.2010. The applicant had undergone Diploma Course in Panchakarma Therapy in the year 2010-2011 from the Jeevana Institute of Ayurvedic Panchakarma, Kochi, as conducted by Bharat Sewak Samaj. The applicant was appointed as Masseur/Pharmacist on contract basis as per Annexure A-3. He was deputed for one month's training in Pharmacy, Masseur, Physio Therapy and Yoga Therapy at Divya Yoga Mandir Trust, Haridwar. by Annexure A-5. Subsequently, he was posted as Masseur/Pharmacist on contract basis at Primary Health Centre, Kadamath. But the contractual agreement was terminated by Annexure A-7.


2. The applicant contended that he had successfully completed the Diploma Course in Panchakarma Therapy from a reputed institution conducted by an agency promoted by the Government of India. No other candidate who was completed the above course from an institute recognized by the State/Central Government is available in the Union Territory of Lakshadweep. Hence there is no justification for terminating the service of the applicant. The applicant is solely depending on the salary received from the said job for his livelihood. Having regard to the facts and circumstances of the case, the 2nd respondent ought to have permitted the applicant to continue in service since he is fully qualified and competent to hold the post and has sufficient training and experience in the field.

3. The respondents in their reply statement submitted that vide letter dated 22.03.2012, the Directorate of Ayurvedic Medical Education (DAME), Trivandrum, has informed that the Bharat Sewak Samaj, is not a recognized institution of Ayurvedic Paramedical Courses conducted by the DAME. The

certificates issued by the said organization are not recognized by the Kerala Public Service Commission and Government of Kerala. Based on this information, the competent authority decided that the Courses conducted by the Bharat Sewak Samaj are not from a recognized institute/university and therefore, they are not satisfying the qualifications prescribed in the notification. As the applicant could not produce any proof to establish that the qualifications he possessed are recognized as per notification, his engagement as Ayurvedic Masseur/ Pharmacist by mistake was terminated.

4. We have heard Mr. R. Ramdas, learned counsel for the applicant and Mr. S. Radhakrishnan, learned counsel appearing for the respondents and perused the records.

5. The impugned order is a speaking order. The reason for terminating the contractual engagement of the applicant is that he does not have a valid certificates from a recognized institute/university for being eligible for appointment. As per the agreement in the contract appointment, his engagement can be terminated without any notice or assigning any reasons. We do not find any reason to interfere with the the order of termination under challenge. The contention that as no other suitable candidates are available for appointment, there is no justification at all to terminate the service of the applicant is not acceptable for the reason that it is for the appointing authority to consider what should be done in case no suitable candidates are available. Persons without valid qualifications cannot be engaged in the interest of public health.



6. Bereft of merit, the O.A is dismissed. However, it is open for the applicant to submit a representation if he is so advised, to the competent authority, who may take appropriate decision on it in accordance with law and on merit. No costs.

(Dated, the 21st November, 2013)



(K. GEORGE JOSEPH)
ADMINISTRATIVE MEMBER



(JUSTICE A.K. BASHEER)
JUDICIAL MEMBER

cvr.