

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Original Application No. 120 of 2011

Friday, this the 14th day of October, 2011

CORAM:

Hon'ble Mr. Justice P.R. Raman, Judicial Member
Hon'ble Mr. K. George Joseph, Administrative Member

Mohammed Bakher M., aged 32, S/o. P. Shaikh Koya,
 Mathil House, Androth Island, U.T. of Lakshadweep,
 Pin-682551.

Applicant

(By Advocate – Mr. P.K. Ibrahim)

V e r s u s

1. Union Territory of Lakshadweep, represented by the Administrator, Kavaratti.
2. The Selection Committee constituted for the post of Lecturer in Hindi represented by its Chairman, District Institute of Education and Training, U.T. of Lakshadweep, Kavaratti, Pin 682555.
3. The Secretary, Education, Union Territory of Lakshadweep, Kavaratti – 682555.
4. The Director of Education, Department of Education, Union Territory of Lakshadweep, Kavaratti – 682555.
5. The Principal, District Institute of Education and Training, U.T. of Lakshadweep, Kavaratti Pin 682555.
6. Noorul Hassan U., Ummaroda house, Kavaratti Island, U.T. of Lakshadweep, Kavaratti Pin – 682555.

Respondents

**[By Advocates – Mr. S. Radhakrishanan (R1-5) &
 Mr. S. Arunraj (R6)]**

This application having been heard on 12.7.2011, the Tribunal on the same day delivered the following:



ORDER

By Hon'ble Mr. Justice P.R. Raman, Judicial Member -

The applicant has responded to a notification inviting application for teaching posts for the various subjects issued by the 4th respondent as per Annexure A-1. The Annexure-1 attached to Annexure A-1 contains the name of the post, number of posts, qualification and experience separately.

For the sake of convenience the same is reproduced hereunder:-

<i>Sl No.</i>	<i>Name of post</i>	<i>No. of post</i>	<i>Qualifications</i>	<i>Experience</i>
1	Lecturer (Teacher Education) PB-2 Rs. 9300-34800 + GP 4800 (Rs. 6500-200-10500 PR) subjects: Malayalam/Arabic/Hindi /History/Economics or Geography/Physics/ Chemistry/Botany/ Zoology/Mathematics	10 (ten)	<u>Essential</u> (I) Master's Degree in Malayalam/Arabic/Hindi/History/Economics or Geography/Physics/ Chemistry/Botany/ Zoology/Mathematics (II) M.Ed. Preferably with specialization in Elementary Education or in service/Continuing education or distance education or educational extension. OR Degree/Diploma/Certificate in Teacher Education (preferably Elementary Teacher Education) OR Degree/Diploma/Certificate in Distance Education / Continuing Education / Extension Preference will be given to those having M.Phil or Phd.	(I) At least 3 years experience of teaching in a school preferably Elementary School/TEI (preferably ETED) (II) experience of active involvement in (a) In-service / Continuing / Distance Education of teachers or (b) Educational extension

2. The applicant is a Post Graduate in Hindi from Calicut University. Annexure A-2 is a certificate issued by the Calicut University. Further his qualification in BEd. is in Social Studies from Calicut University. He has also taken M.Phil in Hindi from Madurai Kamaraj University. He also possess post graduation in Economics from Annamalai University as is seen

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from Annexure A-5 certificate. According to him he is fully qualified to apply for the post of Lecturer in Hindi and he applied for the post. According to him Annexure A-1 prescribes the qualification strictly in conformity with the recruitment rules. Annexure A-7 is the copy of the relevant recruitment rules. Earlier an interview was held on 21.4.2010 and a rank list was published (Annexure A-9). Applicant's name was not included in the select list. He did not however challenge the selection. But that selection was challenged by the 6th respondent inter alia contending that the selected candidate does not possess the required 3 years teaching experience. He filed OA No. 389 of 2010 which was allowed by this Tribunal and a copy of which is produced along with the counter affidavit of 6th respondent as Annexure R-6(a). The selection was set aside and fresh selection was ordered. That was confirmed by the Hon'ble High Court in WP No. 27432/10 Annexure A-10 produced in the case. Subsequently when the authorities proceeded to issue a fresh notification Annexure A-12 that was challenged by the 6th respondent herein by filing OA No. 262 of 2011 inter alia contending that the selection should be confined among candidates who responded to the original notification and the fresh notification ought not have been issued. This contention was not accepted by the Tribunal. However, in the Writ Petition OP No. 262 of 2011 Annexure A-13 it was ordered that the selection should be confined among the candidates who responded against the original notification and no fresh notification is required to be issued. The fresh selection process was therefore, announced. However, the applicant apprehends that the same view for non-selecting him in the earlier stage would be repeated again on



the ground that he does not possess the requisite BEd degree in Hindi and that he did not possess the requisite experience. According to him the fact that he does not possess the BEd degree in Hindi in no way will disqualify him since he already possessed the Masters Degree in the concerned subject. Placing reliance on the decision of this Tribunal in OA No. 626 of 2009 it is contended that a similar view be taken in this regard.

3. We have carefully gone through the said decision and the argument on the subject and the contention of the applicant. The applicant therein is B.A.Ed.(English) and M.A.(English) with 11 years unblemished service in teaching English as Trained Graduate Teacher in the Lakshadweep Islands. He is fully qualified for appointment to the post of Post Graduate Teacher(English). Respondents 4 and 5 who did not obtain graduation with Bachelor of Education in English have also claimed promotion to the post of Post Graduate Teacher(English). They have graduation with Bachelor of Education in Biology and Post Graduation in English by distant education from the Karnataka Open University. The respondents are considering the claim of the respondent Nos. 4 and 5 on the ground that the Recruitment Rules do not insist for graduation with Bachelor of Education in English for promotion to the post of Post Graduate Teacher(English) and the Post Graduation in English will entitle them to be considered for the post of Post Graduate Teacher(English) irrespective of the subject in which they have obtained graduation with Bachelor of Education degree. But persons are appointed as TGTs against vacancies of their specialization only. The applicants submitted that the



above stand of the respondents is wholly arbitrary and illogical in as much as a person not qualified to be appointed as Trained Graduate Teacher in the concerned subject at the high school level will be made eligible to teach that subject in the Higher Secondary level if he has Post Graduation in the concerned subject. This is detrimental to education standard. Considering the above contention, in para 10 it is held as follows:-

"10. However, we find that there is some merit in the argument that if a person who does not have TGT experience in English at High School level is appointed to teach English at the Higher Secondary level, it may cause serious prejudice and adverse impact on the quality of educational standard. Again, Post Graduation degree by distant education from Open University can be obtained without having the basic qualification of graduation as insisted by the Universities awarding regular post graduation degree. Sometimes, it is seen that for certain appointments, regular degrees are being insisted upon by the appointing authorities in the interest of higher standard and competence. These are the issues to be considered by the Lakshadweep Administration. This Tribunal would not be justified in giving a direction in these matters to the Lakshadweep Administration. We do hope that the Lakshadweep Administration would be concerned about these issues and take appropriate action."

4. Ultimately the Tribunal did not interfere with the selection process. Admittedly in that case basic degree besides the post graduation degree being the basic degree or a BEd was not insisted as essential qualification. Actually in that case as per the qualification prescribed BEd was not necessary if he possess experience in teaching.

5. The official respondents on the other hand would contend that it is not for the courts to determine whether a particular qualification possessed by a candidate should or should not be recognized as equivalent to the prescribed



● qualifications as held in State of Rajasthan Vs. Latha Arun - 2002 (6) SCC

252. It is also their contention that the candidate is not entitled for additional marks for his BEd degree in another subject and if it was otherwise the selection would be diluted as his BEd in another subject does not contribute to his skill in being a teacher/trainer in Hindi.

6. The party respondent No. 6 has filed a separate reply. According to him he has taken the following stands in paragraph 4, 5 & 6:-

"4. At the outset it is most respectfully submitted that the applicant is not eligible/qualified to be considered for the post of Lecturer (Teacher Education) Hindi as he do not possess the minimum 3 years of teaching experience as required in Annexure A-7 recruitment rules on 23.9.2009 (the date of notification) or as on 10.10.2009 (the last date of submission of the application).

5. It is most respectfully submitted that Annexure A-7 recruitment rules prescribes minimum 3 years of teaching experience in order to become eligible for the post of Lecturer (Teacher Education) Hindi. This Honourable Central Administrative Tribunal had occasion to consider Annexure A-7 recruitment rules especially the requirement of 3 years of teaching experience in OA 389 of 2010 filed by the 6th respondent challenging the select list issued by the respondent for the post of Lecturer (Teacher Education) Hindi selecting two persons who did not possess minimum 3 years of teaching experience in a school as stipulated in the Annexure A-7 RR. This Honourable Tribunal vide order dated 5.8.2010 in OA 389 of 2010 has categorically held that minimum 3 years of teaching experience is mandatory in order to become eligible or qualified for the post of Lecturer (Teacher Education) as per the Annexure A-7 recruitment rules. A true copy of the order dated 5.8.2010 passed by the Honourable Central Administrative Tribunal, Ernakulam in OA 389 of 2010 is produced herewith and marked as Annexure R-6(A). Annexure R-6(1) order was confirmed by the Honourable High Court vide judgment dated 9.9.2010 passed in WP(C) No. 27432 of 2010, which is produced by the applicant as Annexure A-10 in the OA.

6. It could be seen from Annexure A-11(2) and the Annexure A-6 experience certificates produced in the OA, the applicant possess only 31 months of teaching experience as on 23.9.2009 (the date of notification) or as on 10.10.2009 (the last date of submission of the application) i.e. 2 years and 7 months. As the applicant is not having

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minimum 3 years of teaching experience as prescribed in the RR he is ineligible to apply or to be considered for the post of Lecturer (Teacher Education) Hindi as was held by Annexure R6(A) or of the Honourable CAT and Annexure A-10 judgment of the Honourable High Court. The details of the teaching experience of the applicant as evident from Annexure A-11 (2) and the Annexure A-6 experience certificates is as follows:-

<i>Sl. No.</i>	<i>Teaching From</i>	<i>Experience To</i>	<i>Month</i>	<i>Days</i>
1.	26.12.2005	31.03.2006	03	06
2.	11.06.2006	21.09.2006	03	11
3.	28.10.2006	29.03.2007	05	02
4.	02.06.2007	25.03.2008	09	24
5.	03.06.2008	26.08.2008	02	24
6.	18.10.2008	26.12.2008	02	09
7.	07.01.2009	13.01.2009	--	07
8.	15.01.2009	08.03.2009	01	22
9.	02.06.2009	18.08.2009	02	17
10.	29.09.2009	10.10.2009	--	12
Total			27	134

Total number of Months = 27

Total number of Days = 134 i.e. 4 months & 14 days

Total experience = (27+4) Months + 14 days

Total = 31 Months and 14 days
[Two years and 7 months]"

7. We have heard both sides.

8. Admittedly the applicant possess a post graduate degree in the concerned subject. He also possess an MPhil degree. Going by the recruitment rules and qualification as prescribed, we find that though it is not specifically mentioned that one should possess a BEd degree in the concerned subject we cannot say that the stand taken by the respondents that the candidates should also possess a teachers training degree i.e. BEd in the concerned subject as unreasonable or arbitrary. Going by the

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qualification prescribed the essential qualification includes a BEd degree as well. Even though it is not specifically mentioned that the BEd should be in the concerned subject, on a true interpretation of the qualification as prescribed, if one takes the stand BEd in the concerned subject as we have already noticed, cannot be said to be unreasonable. In OA No. 688 of 2009 this Tribunal had occasion to consider whether a candidate who possess M.Phil degree in Hindi can be considered for appointment to the post of P.G.T. Economic. The contention was that since the candidate possess a M.Phil degree in Hindi he should have been considered for determining his eligibility for selection to the post of PGT Economics. This Court held that "the applicant has applied for the post of PGT Economics, but his M.Phil degree is in a totally unrelated subject, i.e. Hindi. Therefore, there is no merit in the contention of the applicant that his M.Phil degree in Hindi should have been considered for determining his eligibility for the purpose of selection to the post of PGT Economics".

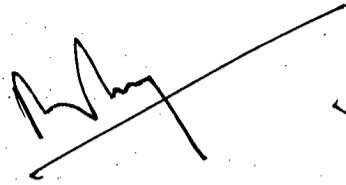
9. In the light of what is stated above, we are unable to appreciate the contention of the applicant that merely possessing a post graduate degree in the concerned subject he will be otherwise qualified even without a BEd degree in the concerned subject as available qualification going by the recruitment rules, and considering the fact that they are teachers to be appointed insistence upon a BEd degree in the concerned subject cannot be said to be totally out of context or contrary to the rules as prescribed. The Court can interfere in such matter if only the stand taken by the respondents is arbitrary or contrary to the prescribed qualification. We do not find any of



these things present in this case. Accordingly, we do not find any merit in this OA. OA is dismissed. No order as to costs.



(K. GEORGE JOSEPH)
ADMINISTRATIVE MEMBER



(JUSTICE P.R. RAMAN)
JUDICIAL MEMBER

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