

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A.No.128 of 2000

Tuesday this the 26th day of March, 2002

C O R A M

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

P.Abdul Rahiman Thangal Koya,  
S/o P.P.Kunhikoya,  
Pattakal House,  
Amini Island  
U.T. of Lakshadweep

Applicant

[By Advocate Mr.Shafik M.A.]

Vs.

1. The Union of India represented by the Administrator,  
U.T.of Lakshadweep, Kavaratti.
2. The Collector cum Development Commissioner,  
U.T.of Lakshadweep, Kavaratti.
3. The Secretary (Administration),  
U.T.of Lakshadweep, Kavaratti.
4. K.M.Ibrahim,  
S/o Madurakam Mohammed Haii,  
Village Extension Officer,  
Office of the Additional Sub Divisional Officer,  
Chetlat Island,  
U.T.of Lakshadweep.
5. K.C.Mohammed Khaleel,  
Village Extension Officer,  
Office of the Additional Sub Divisional Officer,  
Androth,  
U.T.of Lakshadweep.

Respondents

[By Advocate Mr.S.Radhakrishnan ACGSC, (R 1-3)  
By Advocate M/s Sukumaran & Usha (R5)]  
By Advocate M/s H.B.Shenoy & Ashok B.Shenoy)

The application having been heard on 26th March, 2002, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

The applicant has approached this Tribunal for the following reliefs :-

- (i) To call for the records relating to Annexure A-1 to A-14 and to declare that the applicant is entitled to be appointed as VEO as per his ranking in the List prepared after the selection in 1986;

- (ii) To direct the respondents to Review the appointments made on the basis of the selection made for the post of VEO in 1986 and to appoint the applicant in place of the 4th and 5th respondents immediately:
- (iii) To direct the respondents to adequately compensate the applicant for denying him appointment as VEO, which has occurred solely due to the negligence of the respondents:
- (iv) To issue such other appropriate orders or directions this Hon'ble Court may deem fit, just and proper in the circumstances of the case:
- (v) To award the costs of this Original Application.

The facts which are not in dispute are that the applicant was one among the candidates considered for the Village Extension Officers' selection in 1987 and in the selection conducted the applicant was placed last in the list arranged on the basis of marks scored by them. Four candidates were appointed as Village Extension Officers as per R-6 order dated 13.2.88. The applicant was appointed on ad-hoc basis as Village Extension Officer against short term leave vacancies during the period from 19-7-88 to 11.8.88, 10/88, 1/90, 7/92 and finally on 18-12-92. One Shri K.K.Abdul Nazir one of the candidates for the written test and who was ranked first in the select list was not considered for appointment of Village Extension Officer, he approached this Tribunal in OA 1840/92 challenging the appointment of the applicant. The said OA 1840/92 was disposed of by this Tribunal on 26-3-93 by A-1 order in which the appointment of the applicant on short term vacancies was quashed and the respondents were directed to consider the appointment of Shri Abdul Nazir. Respondents terminated the service of the applicant. Applicant has since then been making representations to the official respondents for considering him against a vacancy of Village Extension Officer. His A-2 representation was replied by A-3 O.M



regretting his request for appointment. Applicant approached this Tribunal through OA 1329/95 which was disposed of by this Tribunal by A-6 order dated 19-10-95. Pursuant to the directions contained in A-6 order, A-7 order was passed by the Administrator, Lakshadweep Administration, Lakshadweep conveying the inability of the Administrator to consider his appointment as Village Extension Officer. His further representation dated 29-8-96 was regretted by A-8 order dated 15-10-96. Applicant filed A-10 representation. Not getting any reply he approached this Tribunal through OA 1598/98 which was disposed of by this Tribunal by A-11 order dated 13-11-98. Pursuant the said order applicant's representation dated 14-7-97 was disposed of by the Administrator by A-12 order dated 9-1-99. Applicant again submitted A-14 representation dated 24-11-99 to the Administrator. He claimed that consequent to his representation the respondents have issued orders terminating the services of 4th respondent against which order the said 4th respondent has approached this Tribunal through OA 1316/99. According to the applicant all along the respondent were claiming that there was no vacancy, at the same time two unqualified candidates were in service. According to him as he has qualified in the year 1997 he was eligible for appointment atleast from that year onwards. Claiming that he was fully eligible for appointment at least from the time of passing he was made to loose a chance for public employment due to the lethargy and negligence of the respondents.

Respondents resisted the claim of the applicant.

Private respondents 4 and 5 filed separate reply statement resisting the claim of the applicant.



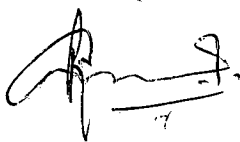
Heard the learned counsel for the applicant, the official respondents and respondent No.5.

Learned counsel for the applicant Mr.Shafik took us through the pleadings in the OA. He mainly submitted that even though by A-1 order his appointment was quashed by the Tribunal that was only in the context of the claim of Mr.Abdul Nazir and the applicant having been placed in the list of candidates after the selection conducted in 1988 should have been considered for appointment as Village Extension Officer when subsequent vacancy arose. He also relied on the letter Annexure A-9 issued by the Lakshadweep Administration on 28-7-1992 to one Mr.S.H.Mohammed Shaffi, Village Extension Officer, Minicoy calling upon him to produce the certificate showing that he had successfully completed the Village Extension Officer's training to claim that the Administration had been continuing ineligible candidates when he was qualified for holding the post. He submitted that the action of the respondents were tainted with malafides and submitted that the OA is liable to be allowed granting the reliefs sought for.

Learned counsel for respondents, Ms Vineetha took us through the reply statement. She submitted that the applicant had approached this Tribunal through OA No. 1329/95 with identical prayers to appoint him as Village Extension Officer forthwith and to declare that he was entitled to be posted as Village Extension Officer with effect from 18.2.88. He has again approached this Tribunal for the same relief through this Original Application and hence this Original Application is hit

by the principles of res judicata. This Tribunal in A-6 order had already held that the applicant's prayer to appoint him as Village Extension Officer could not be granted and the second prayer that he was entitled to be posted as Village Extension Officer with effect from 18.2.88 could not be granted without losing sight of time and limitation. When such is the case of the applicant for similar reliefs has again approached this Tribunal through this Original Application. According to her submission, this Original Application is liable to be dismissed on this ground alone.

Learned counsel for Respondent No.5 relied on the common order dated 25.7.2001 of this Tribunal in OA 1356/2000 and OA 5/2001. Original Application 5/2001 was filed by the 5th respondent against the notice of termination issued to him. The Tribunal by the above order had set aside the order of termination of the 5th respondent. The Tribunal had also found that 5th respondent was possessing the required qualification as per the Recruitment Rules issued on 12.1.76 (Annexure R-1). He submitted that in Annexure A-1 order this Tribunal had found that the Recruitment Rules did not prescribe one year training as Village Extension Officer. Further in A-1 order the appointment of the applicant as Village Extension Officer had been held as bad and set aside. When the applicant was not qualified and eligible for appointment in 1988 he could not claim any benefit in the selection conducted in 1988.



On a careful consideration of the submissions made by the learned counsel for the parties, pleadings of the parties and perusal of the documents brought on record we do not find any reason to grant the reliefs sought for in the Original Application. We find that he is not entitled for the reliefs sought for for the following reasons.

The first ~~ground~~ <sup>relief</sup> sought for by the applicant is as follows:-

- (i) To call for the records relating to Annexures A-1 to A-14 and to declare that the applicant is entitled to be appointed as Village Extension Officer as per his ranking in the List prepared after the selection in 1986.

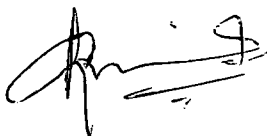
Admittedly, the selection conducted for Village Extension Officer at the time when the selection was conducted in 1987 for Village Extension Officer there was only 5 vacancies and as seen from R-6 only 4 candidates were appointed. The official respondents also claimed that the total number of Village Extension Officer's posts were 9 and in 1987 there was 5 vacancies, one vacancy having been filled up from the previous select list, only 4 vacancies remained and 4 candidates were selected on the basis of marks obtained and were appointed by R-6 order. This is not disputed. When such is the case and Select list which was existing at that time had not been challenged we are of the view that the claim cannot be granted especially in a case like this where the applicant has approached this Tribunal after almost 12 years.

..7/-

Further in this case the applicant's even short term vacancy appointment had been a subject matter of litigation before this Tribunal and this Tribunal in its A-1 order had found that the applicant's appointment was bad in law. When this Tribunal had made such a finding and the applicant having accepted the same and not agitating it in higher forum cannot raise this claim again in this Tribunal.

The applicant's challenge against the appointment of 4th and 5th respondent could not also stand as this Tribunal in its common order in OA 1356/2000 and OA 5/2001 had quashed and set aside the termination orders issued in respect of 5th respondent. This Tribunal has found that as per the then existing Recruitment Rules, 5th respondent was fully covered for appointment and there was no reason for the respondents to terminate his service.

We also find force in the submissions made by the official respondents that this Original Application is hit by the principles of res judicata. The applicant had through OA 1329/95 approached this Tribunal to appoint him as Village Extension Officer and also for declaring that he was entitled to be posted as Village Extension Officer with effect from 18.2.88. This Tribunal in A-6 order held that both the prayers could not be granted and held that the applicant had not legally any right to get any relief. When such a finding had been given and the applicant accepted the same he cannot approach this Tribunal for the reliefs claimed through this Original Application which are similar.



In the result, finding no merit in this Original Application and the Original Application being barred by principles of res judicata we dismiss this Original Application with no order as to costs.

Dated the 26th March, 2002.



K.V. SACHIDANANDAN  
JUDICIAL MEMBER



G. RAMAKRISHNAN  
ADMINISTRATIVE MEMBER

VS



# A P P E N D I X

## Applicant's Annexures :

1. A-1 : True copy of the judgment in Original Application 1840/92 dated 26.3.93.
2. A-2 : True copy of the representation dated 30.3.93 submitted before the 1st respondent.
3. A-3 : True copy of the O.M F.No.2/2/93-services dated 17.11.93 issued by the 3rd respondent.
4. A-4 : True copy of the O.M F.No.2/3/86-services(1) dated 21.1.88 issued by the 3rd respondent.
5. A-5 : True copy of O.M.F.No.12/45/90-services(6) dated 8.10.92 issued by the 3rd respondent.
6. A-6 : True copy of the judgment dated 19.10.95 in Original Application 1329/95.
7. A-7 : True copy of the OM F.No.2/2/93-services dated 29.1.96 issued by the 3rd respondent.
8. A-8 : True copy of the OM F.No.2/2/93-services dated 15.10.96 issued by the 3rd respondent.
- 9.. A-9 : True copy of the OM F.No.2/8/86-services Vol.II dated 28.7.92 issued by the 3rd respondent.
10. A-10: True copy of the representation dated 14.5.97 submitted before the 1st respondent.
11. A-11: True copy of the judgment dated 13.11.98 in Original Application 1598/98.
12. A-12: True copy of the OM F.No.2/2/93-services dated 9.1.99 issued by the 1st respondent.
13. A-13: True copy of the letter No.U-14011/1/93-ANL dated 17.8.93 issued by the M/o Home Affairs, Govt.of India
14. A-14; True copy of the representation dated 24.11.99 submitted before the 1st respondent.

## Respondents' Annexures :

- 1 R-1 : A true copy of Notification F.No.16/40/73-P&D dated 12.01.76 issued by the 1st respondent.
2. R-2 : A true copy of Notification F.No.16/16/77-ZCD dated 10.01.78 issued by the 1st respondent.
- 3 R-3: A true copy of Notification F.No.19/14/81-Services (CC) dated 29.12.81 issued by the 1st respondent.
- 4 R-4 : A true copy of Notification F.No.22/26/82-plg dated 29.07.82 issued by the 1st respondent.
- 5 R-5 : A true copy of Notification F.No.22/8/88-PLG dated 28.7.88 issued by the 1st respondent.
- 6 R-6 : A true copy of order F.No.2/8/86-Services (1) dated 13.2.88 issued by the 1st respondent.
- 7 R-7 : A true copy of office memorandum F.No.12/8/86-Services (1) dated 21.01.88 issued by the 1st respondent.
- 8 R-8 : A true copy of order dated 20.3.2000 in O.A.No.1316/99 before the Central Administrative Tribunal, Ernakulam Bench.
- 9 R-5(a): True copy of certificate dated 30.1.87 issued to the 5th respondent.
- 10 R-5(b): True copy of the appointment dated 13.2.98 issued by the 1st respondent.
11. R-5(c): True copy of the relevant extract of the Recruitment Rules framed by the 1st respondent with regard to appointment of Village Extension Officers.
12. R-4(a): True copy of certificate dated 14.2.2000 issued to 4th respondent by the Commissioner for Rural Development, Thiruvananthapuram.