

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No. 150 of 2010

Friday, this the 18th day of February, 2011.

CORAM:

**HON'BLE Mr. JUSTICE P.R. RAMAN, JUDICIAL MEMBER
HON'BLE Mr. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

Ramla Beegum, M,
W/o. Badarudeen,
Nursery School Teacher,
Mudakiyooda House, Kadamat Island,
Union Territory of Lakshadweep ... Applicant.

(By Advocate Mr. M.V. Thamban)

versus

1. The Hon'ble Administrator,
Union Territory of Lakshadweep,
Kavaratti.
2. The Director of Education,
State Project Director,
Lakshadweep Sarva Shiksha Abhiyan,
Kavaratti.
3. The Headmaster,
Govt. High School, Kadamat Island,
Union Territory of Lakshadweep ... Respondents.

(By Advocate Mr. S. Radhakrishnan)

The Original Application having been heard on 10.02.2011, the
Tribunal on 18.02.2011 delivered the following:

ORDER

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

This O.A. is filed mainly for a declaration that the 2nd and 3rd respondents cannot terminate the service of the applicant as Nursery Trained Teacher (NTT) at the Government High School, Kadamat and to



permit her to continue till 31.03.2010.

2. The applicant was selected and appointed to the post of Nursery Trained Teacher on contract basis at the Government High School, Kadamat, Union Territory of Lakshadweep vide order dated 5.12.2009 (Annexure A-4) for a term upto 31.03.2010. While he was working as NTT, the 2nd respondent issued a fax message dated 17.02.2010 (Annexuer A-5) to the 3rd respondent directing him to cancel the selection of the applicant and conduct a fresh interview to select the candidate for Nursery Trained Teacher giving weightage to the marks scored in the public examination. It was also stated in the message that certain complaint was lodged against the selection criteria adopted by the 3rd respondent. It was further stated that the 3rd respondent had violated the guidelines issued vide F.No. 12/37/2005-Services dated 29th April, 2007. Hence the O.A.

3. The applicant submits that the direction given to the 3rd respondent to prepare a fresh list of Nursery Trained Teacher on the basis of the marks scored in the public examination is illegal and arbitrary because weightage can be given for desirable qualifications/experience/higher qualifications over and above the essential qualification. It is well settled that a temporary hand cannot be terminated to accommodate another temporary hand. If the service of the applicant is terminated in the midst of the academic year, it will cause undue hardship and loss to the applicant. The term of the applicant is due to expire on 31.03.2010 . Hence cancelling the contract is highly arbitrary and high handed. It is not proper for the 2nd respondent to terminate the applicant from service for alleged violation of the selection procedure.

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4. The respondents opposed the O.A. In their reply statement, they submitted that the applicant was perfectly qualified to be appointed as Nursery Trained Teacher, but the experience certificate issued by an unrecognized private institution to the applicant cannot be reckoned consideration for employment. There was complaint from one Beemol N, Nedunilayam House, Kadamat, alleging that the Committee constituted for selecting Nursery Trained Teacher did not select her as Nursery Trained Teacher though she had secured high merit on essential qualifications. From the examination of the documents, it was revealed that the Committee did not follow the guidelines issued by the Administration. There was no provision for written test and interview in the Recruitment Rules. The Committee evolved a criteria of their own violating the instructions issued by the Administration. As there were certain irregularities in the selection procedure, the Department issued an order to cancel the selection of the applicant and to conduct fresh selection giving weightage only to the marks obtained in the public examination. There is no merit in the argument of the applicant for retaining her as Nursery Trained Teacher when more qualified candidate contesting to the post is available. A temporary hand appointed illegally should be replaced in public interest when it is found that the selection was not done as per the procedure. There is no merit in the application submitted by the applicant who is not eligible to be recruited as per the academic performance. The O.A is liable to be dismissed.

5. We have heard Mr. M.V. Thamban, learned counsel for the applicant and Mr. S. Radhakrishnan, learned counsel for the respondents and perused the records.

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6. On admitting the O.A. on 24.02.2010, an interim order was issued to the effect that the service of the applicant should not be terminated without permission of this Tribunal. On the strength of this interim order, the applicant has continued much beyond 31.03.2010 upto which period she was appointed on contract basis as Nursery Trained Teacher. Whether the impugned order at Annexure A-5 dated 17.02.2010 directing fresh interview to select the candidate giving weightage only to the marks scored in the public examination cancelling the selection of the applicant and Annexure A-6 instruction on recruitment and appointment are illegal or not are not relevant at this point of time as the appointment of the applicant was only upto 31.03.2010. Therefore, they are not taken up for consideration. The prayer of the applicant to allow her to continue till 31.03.2010 has now become infructuous. On the strength of the interim order dated 24.02.2010, she has continued for almost another year beyond 31.03.2010. Under the circumstances, the O.A. is liable to be dismissed as infructuous. The respondents should resort to fresh selection for the post of Nursery Trained Teacher. If the applicant is eligible, she can participate in it.

7. In the result, the O.A. is dismissed as having become infructuous. The interim order dated 24.02.2010 is vacated from the date of this order. No order as to costs.

(Dated, the 18th February, 2011)


(K. GEORGE JOSEPH)
ADMINISTRATIVE MEMBER


(JUSTICE P.R. RAMAN)
JUDICIAL MEMBER

cvr.