

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. No.151/99

Tuesday, this the 30th day of November, 1999.

CORAM

HON'BLE MR A.M. SIVADAS, JUDICIAL MEMBER

K. Attakoya, S/o Late P. Abdulkaderkoya,
Superintendent,
Lakshadweep Public Works Department Division,
Amini,
Residing at Koilamm House, Amini.

...Applicant

By Advocate Mr M.R. Rajendran Nair.

Vs.

1. The Administrator,
Union Territory of Lakshadweep,
Kavarathi.
2. The Executive Engineer,
Lakshadweep Public Works Department,
Amini Division,
Division Office, Amini.
3. Shri P. Syedshakoya,
Superintendent,
District Panchayat,
Kavarathi.

...Respondents

By Advocate Mr P. R. Ramachandra Menon, ACGSC for R 1 & 2.

The application having been heard on 30.11.99, the
Tribunal on the same day delivered the following:


O R D E R

HON'BLE MR A.M. SIVADAS, JUDICIAL MEMBER

Applicant seeks to quash A1, A3 and A6, and to
direct the official respondents to consider him for
retention at Amini till his retirement i.e. on 31.5.2001.

2. The applicant says that he was working as Office
Superintendent in Amini with effect from 4.4.1996. He was
transferred from Amini to Kiltan as per A3 order dated
17.8.98.

3. Respondents say that major portion of his service was in Amini and from 11.5.92 onwards till he was transferred as per A3, he was working in Amini. Aggrieved by A3 order, the applicant approached this Bench of the Tribunal by filing O.A.1378/98. That O.A. was disposed of permitting the applicant to submit a supplemental representation to the 1st respondent therein and directing the 1st respondent to consider the same along with the representation already submitted, and to dispose of the representations by a speaking order. That direction was complied with by the 1st respondent therein as per A6 order. As per A6, the applicant was informed that his request for retaining him at Amini cannot be acceded to. Aggrieved by that order, he again approached this Bench of the Tribunal by filing O.A.No.1567/98. That O.A. was dismissed as per order dated 5th of November, 1998. Being not satisfied with the order passed by this Bench of the Tribunal in O.A. 1567/98, the applicant approached the Hon'ble High Court of Kerala by filing O.P. No.21969/98. That O.P. was disposed of holding that this Bench of the Tribunal was right in rejecting the O.A. on the ground that there is no legal basis for the claim of the applicant, but however, directing the Lakshadweep Administrator to sympathetically consider the difficulties experienced by the applicant, in the fresh application, he was permitted to submit. The applicant subsequently submitted A9 representation and A1 was passed considering A9 representation. No new ground was raised in A9 representation submitted by the applicant to the 1st respondent apart from the grounds already raised in the two O.As filed by him before this Bench of the Tribunal.

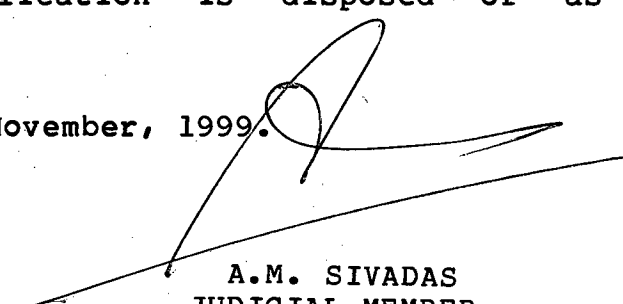


4. A7 is the copy of the order passed by this Bench of the Tribunal in O.A. 1567/98 wherein it was found that there was no merit in the said O.A. The Hon'ble High Court also found that this Bench of the Tribunal is right in rejecting the O.A. Learned counsel appearing for the applicant submitted that since the applicant is on the verge of retirement, in the light of the guidelines for transfer and posting, the official respondents may be directed to consider the case of the applicant for transfer to Amini. Learned counsel appearing for the official respondents submitted that the applicant was working for a pretty long time continuously at Amini. In A1 it is stated that no post of Junior Accounts Officer is vacant and the incumbents working in the post of Junior Accounts Officer have not completed their tenure for considering their transfer. So, the difficulties expressed by the official respondents favouring the applicant to give a posting at Amini is firstly for want of vacancy and secondly other incumbents working have not completed their tenure. That being so, if a vacancy arises in future, there cannot be, in the normal course, any difficulty for the official respondents to consider the case of the applicant.

5. Accordingly, the official respondents are directed to consider the case of the applicant for transfer back to Amini, if vacancy arises in future.

6. The Original Application is disposed of as above. No costs.

Dated the 30th of November, 1999.



A.M. SIVADAS
JUDICIAL MEMBER

LIST OF ANNEXURES REFERRED TO IN THE ORDER

A1, True copy of the Office Memorandum dt.4.1.99 No.F.No.12/15/96-Services issued by the 1st respondent.

A3, True copy of the Order F.No.12/16/96- Services dt. 17.8.98 issued by the Secretary (Administration), Union Territory of Lakshadweep Secretariat, Kavarathi.

A6, True copy of the Office Memorandum dated 25.10.98 No.F.No.12/15/96-Services issued by the 1st respondent.

A7, True copy of the Order dated 5.11.98 in O.A.1567/98 of this Tribunal.

A4, True copy of the order dated 23.9.98 in O.A.1378/98 of this Tribunal.

A9, True copy of the representation dated 18.11.98 submitted by the applicant to the 1st respondent.