

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.152/2003.

Tuesday this the 3rd day of August 2004.

CORAM:

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR.H.P.DAS, ADMINISTRATIVE MEMBER

Faizal F.M., Firdose Mahal House,
Kadamath, U.T. of Lakshadweep.

Applicant

(By Advocate Smt. V.P.Seemanthini)

Vs.

1. Union of India, represented by
Secretary to Government,
Ministry of Home Affairs,
New Delhi.
2. The Superintending Engineer,
Lakshadweep Public Works Department,
Union Territory of Lakshadweep,
Kavarathi.

Respondents

(By Advocate Mr.C.Rajendran, SCGSC(R-1)
(By Advocate Mr. S.Radhakrishnan (R-2)

The application having been heard on 3.8.2004, the
Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN

The applicant applied for appointment to the post of Junior Engineer (Civil), Lakshadweep Public Works Department pursuant to a Notification Annexure A-1. On the basis of a process of selection he was selected. One Smt. Melappuram Shahid and one Mr. Firose A Manikfan filed O.A.397/2002 and O.A.398/2002 challenging the process of selection. Finding that the process of selection was not proper those Original Applications were allowed setting aside the Select Panel dated 28.5.200 (A3) and directing the respondents to hold a fresh selection to the post of Junior Engineer in Lakshadweep PWD notified by A-1 Notification No.1/1/480/2001-C1. Purportedly in obedience to the above directions the respondents have issued

Annexure A-5 notification dated 10.2.2003 calling for fresh applications. The grievance of the applicant is that, while the directions in the judgement was to hold a fresh selection to the post of Junior Engineer in Lakshadweep PWD notified by A-1, a fresh notification(A5) has been issued, which is against the directions contained in the order of the Tribunal in O.A.Nos.397/02 and 398/02. Therefore, the applicant has filed this application seeking to set aside A-5 notification and directed the respondents to hold the selection on the basis of the notification already issued.

2. The respondents in their reply statement contend that as the Tribunal has only directed to hold a fresh selection and not that selection should be confined to those who have applied pursuant to the initial notification, the action on the part of the respondents in issuing another notification, is perfectly in order. It has also been contended that since the O.P.26273/02, 26351/02, 27401/02 and 28776/02 had been filed against the judgement in O.A.397/02 and 398/02 and as these O.Ps. are pending before the Hon'ble ^{High} Court of Kerala, the final selection would be subject to the outcome of the Original Petitions.

3. We have heard the learned counsel on either side. Learned counsel of the applicant with considerable tenacity taking us through the directions contained in the order of the Tribunal in O.A. Nos.397/02 and 398/02 argued that, this Tribunal set aside only the select panel and directed for holding a fresh selection. The notification having not been set aside, the respondents were not justified in issuing a fresh notification calling for fresh applications. We find considerable force in this argument. The

selection process was initiated after issuing A-1 notification. The Tribunal found the process of selection was not proper, but did not find any infirmity with the notification. Therefore, a fresh selection for notified vacancies was directed. Hence, the selection should have to be made on the basis of notification already issued considering those who had participated in the selection process on the basis of that notification.

4. In the result, the application is allowed. The impugned notification is set aside. The respondents are directed to hold a fresh selection on the basis of A-1 notification confining it to those who had responded to the above notification. No costs.

Dated 3rd August, 2004.



H.P.DAS
ADMINISTRATIVE MEMBER



A.V.HARIDASAN
VICE CHAIRMAN

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