

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.191 of 2001.

Monday, this the 19th day of February, 2001.

CORAM:

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

HON'BLE MR T.N.T.NAYAR, ADMINISTRATIVE MEMBER

Mohammed Kassim P,
Lecturer in History,
Mahatma Gandhi College, Androth,
Union Territory of Lakshadweep. Applicant

(By Advocate Shri VD Balakrishna Kartha)

v_s .

1. The Administrator,
Union Territory of Lakshadweep,
Kavarathi.
2. The Director of Education,
Kavarathi, Union Territory of
Lakshadweep.
3. The Principal,
Mahatma Gandhi College, Androth,
Union Territory of Lakshadweep.
4. Union of India represented by
Secretary to Government of India,
Ministry of Home Resources Development,
Department of Education,
New Delhi.

(By Advocate Shri S. Radhakrishnan)

The application having been heard on 19.2.2001, the Tribunal on the same day delivered the following: ..

ORDER

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

The applicant who was appointed by A-1 order dated 4.9.96 as a Lecturer in History on a leave vacancy having been clearly informed that his appointment was purely temporary against a leave vacancy which would not confer on him any

claim for regular appointment on the post and that his services would be terminated at any time without assigning any reasons on rejoining of regular incumbent in service, has filed this application for a declaration that he is a permanent Lecturer in History and is entitled to continue as such and for a direction to the respondents to regularise his service as Lecturer from the date of his joining duty and not to terminate his services as long as the vacancy exists in the Department. He has also prayed for an interim relief to allow the applicant to continue as Lecturer in History in Mahatma Gandhi College, Androth.

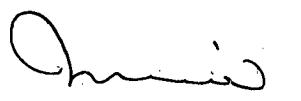
2. It is alleged in the application that one Mr. P.R. Swaminathan, Lecturer in History, in whose leave vacancy the applicant was appointed, having not joined in service within five years, is not entitled to rejoin in service and that the 2nd respondent on vengeance to the applicant issued instructions to the 3rd respondent to allow Shri Swaminathan to join duty terminating the services of the applicant.

3. We have heard Shri V.D. Balakrishna Kartha, counsel for applicant and Shri S. Radhakrishnan, appearing for respondents. We find that the applicant does not have a cause of action now. His services have not been terminated. What is contained in the application is only an apprehension of the applicant. Further even in the order by which the applicant was appointed it was clearly informed that his continuance on the post would be co-extensive with the leave of

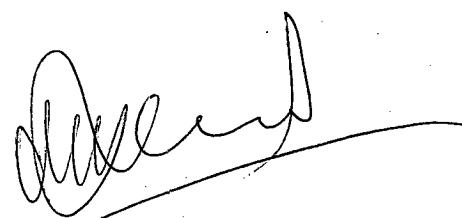
Mr. Swaminathan and the moment Mr. Swaminathan joins back, the applicant's services would be terminated. Having accepted such an appointment, the applicant cannot seek a declaration that he is entitled to continue in service so long as the vacancy exists and that Shri Swaminathan should not be allowed to rejoin. It is open for the applicant to seek appropriate reliefs, in accordance with law, if he is aggrieved by any order.

4. The application which does not disclose a legitimate cause of action is rejected under Section 19(3) of the Administrative Tribunals Act, 1985.

Dated 19.2.2001.



T.N.T. NAYAR
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

rv

LIST OF ANNEXURES REFERRED TO IN THE ORDER:

A-1: True copy of the order No.18-5-90-Edn(Part) dated 4.9.96 issued by the 2nd respondent.