

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. 210/95

MONDAY, THIS THE 28TH DAY OF OCTOBER, 1996.

CORAM:

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

K.M. Sayed, Lecturer in History
Holding charge of Principal,
Jawaharlal Nehru College,
Union Territory of Lakshadweep,
KADMATH.

..Applicant

By Advocate Mr. Shivji representing Mr. P.V. Mohanan

Vs.

1. The Union of India represented by
the Secretary to Government,
Ministry of Human Resources Development
Department of Education, New Delhi.
2. The Union Public Service Commission
Dholpur House, Shahjahan Road,
represented by the Secretary
New Delhi-110011.
3. The Administrator,
Union Territory of Lakshadweep,
Kavaratti.
4. The Director of Education,
Union Territory of Lakshadweep,
Kavaratti.

..Respondents

By Advocate Mr. T.P.M. Ibrahim Khan SCGSC for R-1 & 2

By Advocate Ms Beena for Mr. M.V.S. Nampoothiry for R 3 & 4

The application having been heard on 28.10.1996
the Tribunal on the same day pronounced the following:

O R D E R

A. V. HARIDASAN, VICE CHAIRMAN

The applicant K.M. Sayed while working as
Lecturer was appointed to the post of Principal, M.G. College,
Androth on ad hoc basis by order dated 29.5.89. While working
in the said post, he was transferred as Principal, J.N. College,
Kavaratti on ad hoc basis. However, by order dated 22.8.90,

the applicant was reverted to the post of Lecturer in History with effect from 22.8.90 and he was also directed to hold current duty of the post of Principal of J.N. College until further orders. The applicant continued to do so. Finding that he was not getting any additional remuneration for discharging additional duties of the post of Principal, the applicant took up the matter with the authorities. He represented that with the above normal duties of the Lecturer he has to perform the additional duties as Principal foregoing his weekly, summer and Ramsan holidays and therefore he may be given additional remuneration.

2. Though the respondents 3 & 4 took up the matter with the Ministry of Human Resources Development, Department of Education, Government of India, New Delhi and though initially the Government of India suggested that the respondents 3 & 4 would propose payment of some additional remuneration to the applicant to compensate the additional burden shouldered by him, ultimately, the proposal was turned down by the Ministry of Human Resources Development on the ground that as applicant is only looking after current duties of the post of Principal he is not entitled to get any additional remuneration in accordance with the provisions contained in FR 49. Thus, aggrieved by this order which is communicated to the applicant on 28.9.94(A-X) that the applicant has filed this application under section 19 of the Administrative Tribunals Act praying that the impugned order may be quashed and the respondents be directed to pay the applicant charge allowance as provided for in sub rule (iii) of Rule 49 of the Fundamental Rules.

3. The claim of the applicant is opposed by the respondents. Mr. Shivji appeared for the applicant and

Mr. TPM Ibrahim Khan, appeared for Respondents 1 & 2. Ms. Beena representing Mr. MVS Nampoothiri appeared for Respondents 3 & 4. On a perusal of the pleadings and the relevant materials on record and after hearing learned counsel on either side, I am of the considered view that though the situation appears to be a little peculiar, the applicant is not entitled to the reliefs as claimed by him.

4. Though the applicant was holding the post of Principal J.N. College on ad hoc basis, by order dated 20.8.90 (A-III) he stands reverted to the post of . . . Lecturer. It is true that by the same order he was asked to "hold current duties of the post of Principal". It is evident that the applicant after 20.8.90 is not holding charge of the post of Principal but only looking after the current duties. Therefore, Provisions of sub section (iii) of F.R. 49 do not apply. What applies is as contended by the respondents sub rule (v) of FR 49 which clearly provides that under such circumstances a government servant would not be entitled to any charge allowance. The impugned decision taken by the respondents cannot therefore be faulted. As the current duties cannot be considered as any special work the applicant cannot be granted honorarium also under the Rules.

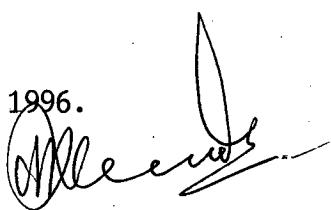
5. Though the decision contained in the impugned order is strictly in accordance with the relevant provisions of the F.R., the factual situation apparently hints that the applicant has been dealt with in a manner which is less than fair. By the order dated 20.8.90 (A-III) while the applicant was holding the post of Principal getting the pay of the post, he was reverted as . . . Lecturer, and was also asked to perform the current duties of the post of Principal. It is pertinent to note that the applicant thereafter continues to discharge the current duties of the post even now. What is achieved by the order A-III in effect

is making the applicant shoulder almost all the responsibilities and duties of the post of Principal in addition to the normal duties of the post of Lecturer without giving him the pay of the post of Principal or even an additional remuneration for the additional work. As the applicant has not challenged the order A-III it is not either proper or necessary to go into that issue. Under what circumstance A-III order came to be issued is not made clear by any of the respondents in their reply. A Principal has to discharge onerous duties. Since for the last many years the applicant in addition to his duties of the post of Lecturer has been doing all those duties as no appointment to the post of Principal has been so far made. Under these circumstances, the respondents should appoint a Principal on regular basis without delay or promote the applicant on adhoc basis till a regular appointment is made.

6. In the result while declining to grant the relief as prayed for, in the peculiar facts and circumstances of the case I direct the respondents to consider and appoint the applicant as Principal on ad hoc basis as was done prior to 28.2.90 till the post of Principal is filled on a regular basis. Action on the above lines should be taken and necessary order passed as expeditiously as possible, at any rate within two months from the date of receipt of a copy of this order.

7. The application is disposed of as aforesaid. There shall be no order as to costs.

Dated the 28th October, 1996.


A. V. HARIDASAN
VICE CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. No. 210 of 1995

Tuesday this the 18th day of June, 1996.

CORAM

HON'BLE MR.JUSTICE CHETTUR SANKARAN NAIR, VICE CHAIRMAN
HON'BLE MR. P.V.VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

K.M.Sayed, Lecturer in History
Holding charge of Principal
Jawaharlal Nehru College,
Union Territory of Lakshadweep,
Kadamath. Applicant

(By Advocate -- No representation)

Vs.

1. The Union of India- represented by
the Secretary to Government,
Ministry of Human Resources Development
Department of Education, New Delhi.
2. The Union Public Service Commission,
Dholpur House, Shajhan Road,
New Delhi-11 represented by the
Secretary.
3. The Administrator,
Union Territory of Lakshadweep,
Kavaratti.
4. The Director of Education,
Union Territory of Lakshadweep,
Kavaratti. Respondents

(By Advocate Mr. KS Bahuleyan for TPM Ibrahim Khan
for R.1&2)

O R D E R

CHETTUR SANKARAN NAIR(J), VICE CHAIRMAN

Neither applicant nor his counsel is present.

Dismissed. No costs.

Dated the 18th June, 1996.

P.V.Venkatakrishnan
P.V.VENKATAKRISHNAN
ADMINISTRATIVE MEMBER

Hankavanur
CHETTUR SANKARAN NAIR(J)
VICE CHAIRMAN