

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**ERNAKULAM BENCH**

**Original Application No. 216 of 2010**

**Friday, this the 23<sup>rd</sup> day of September, 2011**

**CORAM:**

**Hon'ble Mr. Justice P.R. Raman, Judicial Member**  
**Hon'ble Mr. K. George Joseph, Administrative Member**

Mohammed Naj P., S/o. K. Hamzakoya,  
 Pallath House, Kalpeni, Lakshadweep. .... **Applicant**

**(By Advocate – Mr. Vinod Vallikkappan)**

**V e r s u s**

1. The Administrator, Union Territory  
 of Lakshadweep.
2. The Superintendent of Police, Union Territory of  
 Lakshadweep, Kavaratti Island,  
 Lakshadweep. .... **Respondents**

**(By Advocate – Mr. S. Radhakrishnan)**

This application having been heard on 23.09.2011, the Tribunal on the  
 same day delivered the following:

**O R D E R**

**By Hon'ble Mr. Justice P.R. Raman, Judicial Member -**

The applicant who secured 60% marks in the Diploma in Wireless  
 Communication but only in the second attempt thereby certified as having  
 passed in second class is aggrieved by the prescription of the educational  
 qualification for the post of Assistant Sub Inspector (in short ASI) (Radio  
 Technician) and ASI (Wireless Operator) as notified in Annexure A-1 by  
 the respondents.



2. It is the contention that Annexure A-1 notification prescribes the educational qualification as Bachelors Degree in Science Subjects Physics / Mathematics / Chemistry / Electronics / Computer Science from any recognized University or First Class Diploma in Radio Telecommunication Engineering / Electronics and Communication Engineering from any recognized institution. According to him a person who is a diploma holder in Radio Telecommunication / Electronics & Communication Engineering or else as the case may be is to be considered as better qualified than a graduate in Science. So, to insist a first class to be possessed by a diploma holder as equivalent to a pass in Bachelors Degree in Science, is irrational and discriminatory. No such distinction is made in the case of the same post in the Coastal Security in Lakshadweep Administration. Annexure A-2 is a notification produced which shows that the educational qualification prescribed for ASI (Wireless Technician) is either a Degree / Diploma in Electronics / Computer Science from any recognized University or Diploma in Radio Telecommunication Engineering / Electronics and Communication Engineering from any recognized institution. Thus it does not insist for a first class for diploma holders as is done in the case of ASI in the Lakshadweep Police Department.

3. In the reply statement however it is submitted that the Government of India in exercise of the powers conferred have formulated the rules called Lakshadweep Police Wireless (Class III Posts) Recruitment Rules, 1977 which prescribes the relevant qualification to be possessed as per schedule attached thereto. In the notification the qualification mentioned is only a

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reproduction of the qualification so prescribed by the statutory rules. According to them experience show that the graduate and diploma cannot be equated in the case of Telecommunication Engineering and to equate a graduate in Physics, Chemistry, Electronics/Computer Science, it was decided that diploma holder should at least be a first class holder. According to them the post of ASI Wireless under the Lakshadweep Police and under the Coastal Security Scheme are different and that the difference in the two service were consciously made considering the different nature of duties performed by the Wireless Operators under these two different set ups. It is further explained in paragraph 7 that communication set up of the Local Police and that under Coastal Security Scheme are entirely different. Under the Coastal Security Scheme the personnel manning the communication has to handle VHF communication between the land and the interceptor boats operating in the territorial waters of the islands where as the police communication net work includes POLNET, CCTNS and other sophisticated system and equipments. Hence, first class diploma in Radio Telecommunication Engineering / Electronics and Communication Engineering from any recognized institution has been prescribed in the relevant recruitment rules of the Police Communication. It is also stated that the Bachelors' degrees in science subjects are preferred so that they would be more amenable to the basic induction course.

4. We have heard the learned counsel for the applicant Mr. Vinod Vallikkappan and Mr. S. Radhakrishnan learned counsel for the respondents.



5. The point that is canvassed before us is that prescription of a first class degree for diploma holder to be equated with a graduate in Science, Physics, Chemistry or Electronics as the case may be, is irrational. The prescription of a first class to diploma holder who is a technical person undergoing the three years diploma course is arbitrary. It is pointed that while a diploma holder is a technically qualified person, a graduate is not and therefore if at all the insistence for a first class should be otherwise to the graduate and not for the diploma holder. It is also pointed out that in the Coastal Security service no such distinction is rightly made by the same Lakshadweep Administration. The arguments on the other hand by the respondents is that the two services are different and it was a conscious decision to prescribe first class for a diploma holder in distinction to a graduate in science and the nature of the duties performed are also different. The question often arises is as to whether Court being not having any expertise could interfere with the prescription of the qualification by the statutory authority. In this connection we may refer to some of the decisions of the Apex Court in Union of India & Ors. Vs. Basudeba Dora & Ors. - 2003 (2) SCC 632. In paragraph 10 it is held as follows:-

“Questions relating to the constitution, pattern, nomenclature of posts, cadres, categories, their creation/abolition, prescription of qualifications and other conditions of service including avenues of promotions and criteria to be fulfilled for such promotions pertain to the field of policy is within the exclusive discretion and jurisdiction of the State, subject, of course, to the limitations or restrictions envisaged in the Constitution of India and it is not for the statutory tribunals, at any rate, to direct the Government to have a particular method of recruitment or eligibility criteria or avenues of promotion or impose itself by substituting its views for that of the State.”

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6. Thus prescription of the qualification has been held to be in the field of policy and secondly the Court or Tribunals cannot have gone through the limitations and restrictions and it should be left to the expert body to decide as to what should be the relevant qualifications to be possessed for a particular post and they are not in the realm of the judicial review by Courts or Tribunals. Similarly in J. Ranga Swamy Vs. Government of Andhra Pradesh, AIR 1990 SC 535 it was held "The post in question is that of a Professor and the prescription of a doctorate as a necessary qualification therefore is nothing unusual..... It will be open to the petitioner, if so advised, to move the College, university, Government, Indian Medical Council or other appropriate authorities for a review of the prescribed qualifications and we hope that, if a doctorate in nuclear physics is so absolutely irrelevant for the post in question as is sought to be made out by the petitioner, the authorities concerned will take expeditious steps to revise the necessary qualifications needed for the post appropriately. In V.K. Sood Vs. Secretary, Civil Aviation & Ors., AIR 1993 SC 2285 it was held that rules prescribing method of recruitment and qualification made under proviso to Article 309 of the Constitution being statutory cannot be impeached on grounds that they prescribe tailor made qualifications to suit particular individual or are discriminatory. Suffice to state that it is settled law that no motives can be attributed to the Legislature in making the law. The rules prescribed qualifications for eligibility and the suitability of the appellant would be tested by the Union Public Service Commission.

7. In the light of the above decisions of the Apex Court it is settled law

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that interference in the matter of prescription of a qualification by an executive is very restricted and limited as far as the Courts or Tribunals are concerned. As it cannot be said that prescription of any particular qualification is either motivated or actuated by any malafides, the question whether or not such prescription of requiring a first class in diploma is necessary or not is not a matter for which Court could give any direction. Even if the view of the Court is otherwise that is no ground for interference in such matters. In such circumstances, we do not find any reason to interfere with the qualification as prescribed. Accordingly, the OA is dismissed as one without merits. However, the dismissal of this case need not stand in the way of the authorities to consider the matter in case the applicant is able to convince them that such prescription is not rationale and make representation on that behalf. No order as to costs.



(K. GEORGE JOSEPH)  
ADMINISTRATIVE MEMBER



(JUSTICE P.R. RAMAN)  
JUDICIAL MEMBER

“SA”