

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 229 of 1999

Wednesday, this the 20th day of June, 2001

CORAM

HON'BLE MR A.M. SIVADAS, JUDICIAL MEMBER
HON'BLE MR. G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

1. K.P. Koya, S/o late U. Attakoya,
Trained Graduate Teacher, GHS, Amini
residing at Koodathapade,
Agathi Island.Applicant

[By Advocate Mr. M.R. Rajendran Nair]

Versus

1. The Administrator,
Union Territory of Lakshadweep,
Kavarathi.

2. The Director of Education,
Union Territory of Lakshadweep,
Kavarathi.

3. Union of India, represented by
Secretary to Government of India,
Ministry of Human Resources Development,
Department of Education, New Delhi.Respondents

[By Advocate Mr. P.R. Ramachandra Menon (rep.)]

The application having been heard on 20-6-2001, the
Tribunal on the same day delivered the following:

O R D E R

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

The applicant seeks the following reliefs:-

"(i) To declare that Annexure-A2 recruitment rules
to the extent it does not reckon the service of
a Trained Graduate Teacher as a Primary School
Teacher for the purpose of promotion to the
post of Head Master (Senior Basic School) is
illegal and to direct the 1st respondent to
consider suitable amendments to the Annexure-A2
recruitment rules so as to reckon the prior
service of a Trained Graduate Teacher as a
Primary School Teacher for the purpose of
promotion to the post of Headmaster (Senior
Basic School).

(ii) To direct the respondents 1 and 2 to reckon
applicant's service as a Primary School Teacher
for the purpose of promotion as Head Master

(Senior Basic School) and to consider him for promotion to the post of Head Master (Senior Basic School) accordingly and to promote him in his due turn.

- (iii) Grant such other relief as may be prayed for and the Tribunal may deem fit to grant, and,
- (iv) Grant the costs of this Original Application."

2. The applicant is working as Trained Graduate Teacher (Malayalam) in the Government High School, Amini. He entered service as Primary School Teacher with effect from 15-5-1979. He obtained Post Graduate degree in April, 1993. On 24-6-1995 he joined as Trained Graduate Teacher. As a Primary School Teacher he had taught in standards I to VII. A Trained Graduate Teacher does not teach in primary school classes. Hence the experience of a Trained Graduate Teacher, unless he has got some service as Primary School Teacher to his credit in the primary classes, is nil. Recruitment rules governing the post of Head Master (Senior Basic School) have been amended by the administration. As per the amended recruitment rules, for the post of Head Master (Senior Basic School) Trained Graduate Teachers with 5 years regular service in the grade with Post Graduate qualification alone will be considered.

3. Respondents resist the OA contending that the wisdom of experts who framed, recommended and approved the recruitment rules cannot be undermined. It is not correct to say that the primary school teaching experience is essential to lookafter the administration of primary schools. The contention that the Head of Senior Basic School should have the teaching experience in primary school does not hold any water at all and if that be so, the same principle has to be applied to the higher positions like the Director of Education or Education Secretary who controls all institutes from the primary school to colleges.

4. In the grounds stated in the OA, it is mentioned that:

"Hence it is necessary that recruitment rules should be suitably modified so that 5 years combined service as a Primary school teacher and Trained Graduate Teacher will be reckoned for the purpose of promotion as Head Master (Senior Basic School)."

So, what the applicant says is that the recruitment rules should be modified to suit his convenience. It is not for the Tribunal to modify or alter or amend the recruitment rules. It is not within the jurisdiction of the Tribunal.

5. The learned counsel appearing for the applicant drew our attention to the first relief, i.e. to declare that A2 recruitment rules to the extent it does not reckon the service of a Trained Graduate Teacher as a Primary School Teacher for the purpose of promotion to the post of Head Master (Senior Basic School) is illegal and to direct the 1st respondent to consider suitable amendments to A2 recruitment rules so as to reckon the prior service of a Trained Graduate Teacher as a Primary School Teacher for the purpose of promotion to the post of Head Master (Senior Basic School).

6. In the prayer, the applicant says that A2 recruitment rules to the extent it does not reckon the service of Trained Graduate Teacher as a Primary School Teacher for promotion to the post of Head Master (Senior Basic School) is to be declared as illegal. No legal ground in support of the same is mentioned in the OA. The learned counsel for the applicant argued that the present provision in the recruitment rules is violative of Article 14 of the Constitution of India. There is no ground raised in the OA that the particular portion of the recruitment rules is violative of Article 14 of the Constitution of India. In that context, the learned counsel for the applicant argued that the present provision in the

recruitment rules would lead to an absurdity. By saying that the particular provision in the recruitment rules will lead to an absurdity cannot be taken as a plea that it is violative of the provisions of Article 14 of the Constitution of India.

7. In the common order passed in OA Nos. 232/96, 275/96 and 830/97 it has been held by this Bench of the Tribunal that the prerogative of fixing the qualifications required for different posts is with the administration. It is a well settled proposition also. The Tribunal is not to fix the qualification or experience or method for recruitment to a particular post. It is well within the powers of the administration.

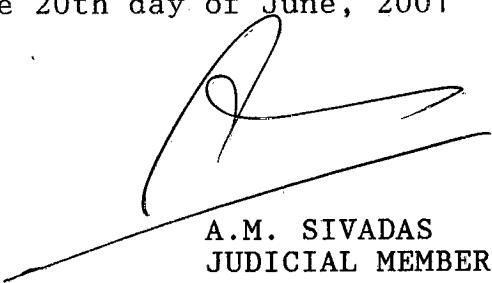
8. We do not find any merit in this Original Application.

9. Accordingly, the Original Application is dismissed. No costs.

Wednesday, this the 20th day of June, 2001



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER



A.M. SIVADAS
JUDICIAL MEMBER

ak.

List of Annexure referred to in this order:

1. A2 True copy of the amended Recruitment Rules dated 25-1-96 No. F.No. 18/30/89-Edn issued by the 1st respondent.