

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

OA No.249/2003

Dated Monday this the 28th day of March, 2003.

C O R A M

HON'BLE MR.T.N.T.NAYAR, ADMINISTRATIVE MEMBER  
HON'BLE MR.K.V.SACHIDANANDAN, JUDICIAL MEMBER

Mohammed Noufal  
Puthiyaveedu House  
Androth Island  
Union Territory of Lakshadweep.

Applicant

(By advocate Mr.P.Ali)

Versus

1. Union of India represented by  
The Secretary  
Ministry of Home Affairs  
New Delhi.
2. The Administrator  
Union Territory of Lakshadweep  
Kavarathi.

Respondents.

(By advocate Mr.P.R.Ramachandra Menon, ACGSC)

The application having been heard on 28th March, 2003, the Tribunal on the same day delivered the following:

O R D E R

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

The applicant seeks to challenge A-1 notification issued by the Administration of Union Territory of Lakshadweep - the 2nd respondent, on the ground that the educational qualifications prescribed for direct recruitment to the post of Primary School Teachers under the Union Territory of Lakshadweep have been so prescribed as to include degree holders with B.Ed. qualification as per column 8 (2&3) of the Schedule to the said notification, thereby reducing the chances of candidates mentioned in column 8 (1) i.e. TTC holders by 50%. According to the applicant, till the issue of A-1 notification, the prescribed qualification for appointment to the post of Primary School Teachers under the Lakshadweep Administration as prescribed under the previous Recruitment Rules of 1963 was SSLC or equivalent and TTC. The

2

applicant's apprehension is that if the A-1 notification is implemented, selection to the post of Primary School Teachers, which was available exclusively to the category of candidates mentioned in column 8(1) would be lost to them by 50% and this is an inequitable situation in view of the fact that even under Kerala Education Rules (KER), the qualification as per Rule 4 (1) of Chapter XXXI is SSLC or equivalent and TTC. Accordingly, the following reliefs are sought by the applicant:

- (i) Call for the records leading to Annexure A1 and quash the same to the extent adding substitute qualifications at same to the extent adding substitute qualifications at column 11 earmarking 50% vacancies to those qualified at column 8 (2&3) in violation of parent Rules notified as F.No.2/7/63-LMA dated 4.2.63.
- (ii) Declare that TTC holders alone are eligible to be appointed as Primary School Teachers and not B.Ed. holders or any other qualified person other than the qualification prescribed at column 8(1) of Annexure A1 Rules.
- (iii) Direct the 2nd respondent to invite applications exclusively from TTC holders as per column 8 (1) of Annexure A1 for appointment as Primary School Teachers, the qualification prescribed as eligible in the parent rules notified as F.No.2/7/63-LMA dated 4.2.63.

2. When the matter came up for hearing on admission, Mr.P.R.Ramachandra Menon (represented by Mr.Sajeev Kumar) took notice for the 2nd respondent and Mr.C.Rajendran, SCGSC took notice for the 1st respondent. Mr.Sajeev Kumar, the learned counsel representing the 2nd respondent has pointed out that the applicant does not have any locus standi in the present matter since the new set of Recruitment Rules has been formulated with effect from 4.9.02 after considerable deliberations by an expert body on educational reforms. The idea was to upgrade the system of education with a view to upgrade the education in the Union Territory of Lakshadweep. With this idea in view, the revised qualifications were prescribed prospectively. It is also made

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clear by the learned counsel for the respondents that no recruitment process has taken effect in pursuance of the said Recruitment Rules and as such no injury has been caused to anybody. Further, it is not as though the applicant's categories of employment seekers are totally blocked. The counsel would point out that as per column 8 (1), candidates with Senior Secondary School Certificate/PDC or its equivalent with TTC/TCH or its equivalent having prescribed marks would also be eligible to apply for the post of Primary School Teachers under the Union Territory of Lakshadweep and as such the applicant in case he is otherwise qualified can avail himself of the opportunities under the new Recruitment Rules. There is no violation of the constitutional provisions involved nor has any specifically identified right of the applicant been injured. The OA is liable to be dismissed outright, the learned counsel would urge.

3. We have considered the facts and circumstances. We are of the opinion that the applicant does not have a subsisting cause of action. A-1 notification dated 4.9.02 cannot be challenged by the applicant since it does not take away any of the existing rights of the applicant. It is not as though the applicant has applied for a specific post and the provision has been applied against him in violation of the rights guaranteed under the law or rules. It is clear on the face of the notification that it takes effect only from 4.9.02 i.e. the date of publication in the official gazette and that, therefore, it has prospective application only. All the other arguments put across in this regard by the learned counsel of the applicant are only reflective of unreal apprehensions in the mind of an outsider that if the recruitment rules are amended by incorporating

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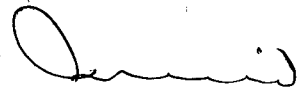
therein higher qualifications, his interest was likely to be prejudiced. The Government cannot be prevented from making rules having prospective operation without causing any injury to the existing rights of the individuals. The applicant does not possess any vested right. Therefore this application is rejected under Section 19 (3) of the Administrative Tribunals Act, 1985. No order as to cost.

Dated 28th March, 2003.



K.V. SACHIDANANDAN  
JUDICIAL MEMBER

aa.



T.N.T. NAYAR  
ADMINISTRATIVE MEMBER