

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No.272/2013

Wednesday, this the 13th day of July, 2016

CORAM:

**HON'BLE Mr.JUSTICE N.K. BALAKRISHNAN, JUDICIAL MEMBER
HON'BLE Ms.P. GOPINATH, ADMINISTRATIVE MEMBER**

Faheema.A.,
D/o.Abdul Jaleel,
Ashiyakada House,
Agathi Island, Union Territory of Lakshadweep.

...Applicant

(By Advocate Mr.C.Khalid)

V e r s u s

1. The Administrator,
Union Territory of Lakshadweep,
Kavaratty – 682 555.
2. Secretary,
General Administration Services,
Administration of Union Territory of Lakshadweep,
Secretariat, Kavaratti – 682 555.
3. Director, Health Service,
Union Territory of Lakshadweep,
Directorate of Services, Kavaratti – 682 555.
4. Shahanas Beegum,
D/o.Muthukoya,
Melachedam House,Kalpeni Island,
Union Territory of Lakshadweep – 682 555.
5. Muhammed Shereef K.K.,
S/o.Cheriyakoya,
Kailiyammakada House, Kadamath,
Union Territory of Lakshadweep – 682 551.

...Respondents

(By Advocate Mr.S.Radhakrishnan [R1-3])



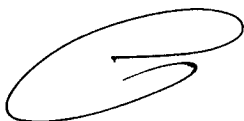
This application having been heard on 30th June 2016, the Tribunal on ~~13th~~ July 2016 delivered the following :

ORDER

HON'BLE Ms.P.GOPINATH, ADMINISTRATIVE MEMBER

The applicant avers she is having the essential and desirable qualifications for the post of Radiographer as per the Recruitment Rules. Without considering the experience of the applicant as Radiographer the impugned checklist was published. The checklist was published in violation of the Recruitment Rules and procedures prescribed for the said post. The applicant is aggrieved by Annexure A-20 check list for the post of Multi Tasking Employee (Medical), Multi Tasking Employee (Technical)/Auxiliary Nursing Midwife/Lab Technician/Radiographer as per Employment Notice dated 14.9.2012 issued by the 3rd respondent wherein the check list published was in violation of the procedures prescribed for the said post. The applicant has applied for appointment as one of the eligible candidates for the advertised post notified on 14.9.2012. Applicant draws attention to guidelines prescribed in O.M.F.No.12/37/2005 services dated 28.4.2007 which are as follows :

- (a) Not less than 85% of the total marks may be assigned to the essential qualification stipulated in the Recruitment Rules.
- (b) Up to 15% of the total marks may be assigned to the desirable qualification – experience higher qualification taking into account the provision of the RRS.
- (c) The order also stipulated that the constitution of the committee and the criteria for award of marks should be done with the approval of the Administrator before the notification of the post for recruitment.



(d) The order also stipulated that the constitution of the committee and the criteria for award of marks could be done with the approval of the office Administrator before the notification of the post for recruitment.

2. As per the Recruitment Rules F.No.5/21/58 DISHS dated, 27.1.1990 for the appointment to the post of Radiographer, the educational qualifications prescribed for direct recruitment is pass in PDC with Physics and Chemistry and Diploma in Radiography from recognized institution. Reliefs sought by applicant is to set aside Annexure A-20 revised check list issued by the 3rd respondent.

3. Respondents in their reply statement submit that the applicant an aspirant for the post of Radiographer notified on 14.9.2012 contends that she is unfairly neglected during the appointment process, after being enlisted in the check list, even though having higher qualification and experience. The check list was prepared and published strictly as per Annexure A-15 Recruitment Rules. It is submitted that the respondent has revised the check list dated 19.1.2013 (Annexure A-16) on the basis of objections received in response to Annexure A-20 preliminary check list inviting objections, if any, within 7 days from the publication of the notice dated 12.2.2013. In the revised check list also, the name of the applicant is figured at Sl.No.4. Since there is no provision in the Recruitment Rules of Radiographer to consider any desirable qualification, like experience etc. the same in respect of applicant was not considered as it would construe violation of Recruitment Rules.



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4. Heard the counsel for the applicant and respondents and considered the written submissions made. As per Annexure A-15 Recruitment Rules produced by applicant the educational qualification prescribed for the post of Radiographer is :

- (1) Pass in PDC with Physics and Chemistry Group
- (2) Successful completion of Diploma in Radiography from a recognized institution.

5. Applicant argues that her five years experience has not been considered for appointment to the post . The post being in scale Rs.1400-2600 (V CPC) prescribes no experience qualification. Hence the contention of the applicant to count her five years experience of working as a Radiographer for selection to the post, would be in violation of the Recruitment Rules which does not prescribe such experience qualification. The guidelines in Annexure A-17 OM dated 28.4.2007 of prescribing 15% of total marks for the desirable qualification is not applicable to the post as the Recruitment Rules does not prescribe any desirable qualification.

6. A perusal of Annexure A-20 check list reveals that the applicant whose name appears at Serial No.4 has 47.22% marks which is calculated on the basis of total marks of PDC and Diploma in Radiography marks. Other persons in the check list have 56.69%, 54.47%, 51.07%, 50.53%, 49.67% and 48.3% marks, which is much higher than 47.22% marks obtained by applicant. Actually applicant has got the lowest marks in the check list and is therefore not eligible for appointment.



7. Applicant during argument informs that candidate at Serial No.6 of the Check List who has obtained the highest marks ie. 56.69% has been made offer of appointment. That can not be objected to because the respondent has rightly selected the candidate who has secured the highest marks. It is done as per Recruitment Rules for the post. Since no experience criteria has been notified in the Recruitment Rules or in the advertisement for the post, the experience of the applicant does not merit consideration as it would be in violation of the Recruitment Rules. Annexure A-20 check list has not been drawn up in the order of descending or ascending marks. Hence contention raised by applicant made on the basis of Serial Number allotted in the rank list is untenable. The claim of the applicant for consideration for appointment in violation of Recruitment Rules and being the lowest in rank list in terms of total of +2 and Diploma in Radiography marks, does not merit consideration.

8. O.A is accordingly dismissed. No costs.

(Dated this the ..13th... day of July 2016)


(P. GORINATH)
ADMINISTRATIVE MEMBER


(N.K. BALAKRISHNAN)
JUDICIAL MEMBER

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