

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Original Application No. 322 of 2009

Friday, this the 12th day of June, 2009

CORAM:

Hon'ble Dr. K.B.S. Rajan, Judicial Member
Hon'ble Ms. K. Noorjehan, Administrative Member

K.B. Shihabudheen, Co-Operative Inspector,
 S/o. P.K. Hamzath, aged 34 years,
 Food and Civil Supplies, Kavaratti,
 Lakshadweep.

Applicant

(By Advocate – Mr. G. Sukumara Menon)

V e r s u s

1. Administrator, Union Territory of Lakshadweep, Kavarathi.
2. Director, (Planning and Statistics), Administration of the Union Territory of Lakshadweep, Secretariat, Kavaratti.
3. Director, Food Supplies, Department of Food and Civil Supplies, Consumer Affairs, Kavaratti.

Respondents

(By Advocate – Mr. S. Radhakrishnan)

The application having been heard on 12.6.2009, the Tribunal on the same day delivered the following:

O R D E R

By Hon'ble Dr. K.B.S. Rajan, Judicial Member -

The applicant has been functioning as Co-operative Inspector under the Director, Foods Supplies, Department of Food and Civil Supplies, Consumer Affairs, Kavaratti. As he was aspiring for better career prospects, he applied for permission to register his name in the employment exchange and a "no objection certificate" dated 4.8.2001 (Annexure A-1) was issued. It appears that the applicant had his opportunity to apply for higher post of

Statistical Assistant vide circular dated 13.2.2009 (Annexure A-2). When this opportunity was zealously availed of by the applicant vide his letter dated 24.2.2009, the authorities have vide Annexure A-4 office memorandum dated 13.3.2009 refused to forward his application giving reasons as under:

"Attention of Shri K.B.Shabudheen Cooperative Inspector Department of Food & Civil Supplies Kavaratti is drawn to the reference on the subject mentioned above it is to inform you that the eligibility prescribed for promotion as Statistical Assistant, Junior Investigator/U.D. Clerk or post in similar or higher scales having 5 years regular service in the grade with the education qualification as per reference 2nd cited above. The post of Statistical Assistant and Cooperative Inspector are same grade and is not better employment. Therefore in view of the HDCM training given to you and lack of sufficient experienced staff in this Department, this office not in a position to forward your application to the concerned."

2. The applicant made a further representation vide Annexure A-5 dated 18.3.2009.

3. As there was no further communication relating to the forwarding of the application of the applicant, the applicant has preferred this OA praying for the following relief:

"(i) direct the 1st respondent to suitably interfere in the matter of forwarding the application of the applicant for appointment to the post of Statistical Assistant in the Planning and Statistics Department put in by him pursuant to Annexure-A2 circular, at an early date,

(ii) direct the 3rd respondent to forward the application put in by the applicant with the required documents referred to in Annexure-A3, to the 2nd respondent at an early date."

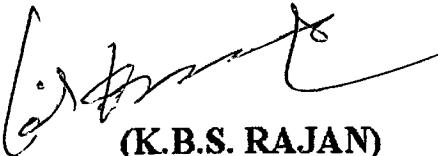
4. Though time was granted to seek instructions in the matter vide order dated 27.5.2009 followed by order dated 8.6.2009, no instructions were said to have been received by the counsel for the respondents. In view of the urgency involved in the matter we have no option but to consider the case on merits.

5. When the respondents have issued no objection certificate the same

amounts to a sort of commitment to permit the applicant to apply for employment elsewhere. As such when the opportunity was available to the applicant (perhaps for the first time) and when he applied on 24.2.2009, instead of forwarding the application as required vide circular dated 13.2.2009 (Annexure A-2) along with ACR for the past five years, vigilance clearance and integrity certificate, respondents have come up with the objection as contained in Annexure A-4 in refusing to forward the application. The islanders normally have limited scope for better employment and in case if they are prevented from aspiring for the same especially after being permitted to register the name with the employment exchange for better employment, the same cannot be viewed as appropriate. It may even shatter the faith of the employee with the employer.

6. In view of the above this OA is allowed. Respondent No. 3 is directed to forward the application to respondent No. 2 along with the certificates and the ACRs in accordance with the directions given in Annexure A-2. If the selection has not taken place so far, respondent No. 2 may consider the application of the applicant also along with the other applications treating it as received on time, in view of the fact that the applicant has applied on time (before 13.3.2009) and the applicant cannot be faulted with for the delay in despatch by the office, of the application. Let this order relating to forwarding of application, be complied with within a period of seven days from the date of receipt of a copy of this order. No order as to costs.


 (K. NOORJEHAN)
 ADMINISTRATIVE MEMBER


 (K.B.S. RAJAN)
 JUDICIAL MEMBER

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