

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 328 of 1990
L.A. No.

DATE OF DECISION 15-7-1991

NJ Varghese Applicant (s)

Mr PK Jose Advocate for the Applicant (s)

Versus

Administrator, U.T. of Respondent (s)
Lakshadweep, Kavarathy & 4 others

Mr NN Sugunapalan, SCGSC Advocate for the Respondent (s) 1-3

CORAM:

The Hon'ble Mr. SP Mukerji, Vice Chairman
&

The Hon'ble Mr. AV Haridasan, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. To be circulated to all Benches of the Tribunal?

JUDGEMENT

AV Haridasan, Judicial Member

The applicant NJ Varghese, a Graduate trained Teacher, Government High School, Kadamath in the Union Territory of Lakshadweep has filed this application praying that the orders dated 28.12.1989 and 22.3.1990 (Annexures-A and B) issued by the first respondent may be set aside, that the representation made by the applicant on 15.9.1989 and 8.4.1990 at Annexures-F and G requesting that he may be promoted as Head Master and Education Officer may be directed to be disposed of and that the first respondent may be directed to appoint him in one of the vacancies of Head Master of High School or Education Officer.

2. The applicant who is a Post Graduate in History and holder of a B.Ed. Degree joined service as Graduate Assistant (Trained Graduate Teacher) in the Government High School, Androth on 14.6.1969. He is in the selection scale of Trained Graduate Teacher from 1.1.1983 onwards. Respondents 4 and 5 do not have Post Graduate Degree. But they were promoted as High School Head Masters by Annexure-A order dated 28.12.1989 and were posted as Education Officers by order dated 22.3.1990 at Annexure-B. As the applicant holds a Post Graduate Degree, he made Annexure-F and G representations requesting that he may be promoted as High School Head Master and be posted as Education Officer. Finding no response, the applicant has filed this application. In the application the applicant has averred that as per the Recruitment Rules for High School Head Masters, the qualification prescribed is Masters Degree. The applicant therefore contents that, the promotion of the respondents 4 and 5 as High School Head Masters and their appointment as Education Officers are against the Recruitment Rules. Hence the applicant has prayed that the impugned orders at Annexure-A and B may be quashed and that the 1st respondent may be directed to appoint him as a High School Head Master. He has also prayed that his representations at Annexure-F and G may be directed to be disposed of.

3. The respondents 1 to 3 have in the reply statement contended that the posts of High School Head Masters are to be filled $66\frac{2}{3}\%$ by promotion and $33\frac{1}{3}\%$ by direct

recruitment, that for promotion, Post Graduate Degree is not an essential qualification, that the respondents 4 and 5 being seniors[✓] in the cadre of Trained Graduate Teachers were promoted on the recommendation of the duly constituted DPC, that the applicant was not promoted as he did not come within the zone of consideration, and that the applicant by reason of his acquisition of Post Graduate Degree is not entitled to be promoted overlooking seniority of other persons in the cadre of Graduate Trained Teachers.

4. We have gone through the pleadings and documents and have also heard the arguments of the learned counsel on either side. Annexure-C is a copy of the Lakshadweep Administration Head Master, High School recruitment Rules. Column 11 in these Rules shows that the method of recruitment is $66\frac{2}{3}\%$ by promotion and $33\frac{1}{3}\%$ by direct recruitment. According to Column 12, Head Masters Govt. Basic School/Assistant Educational Officers are eligible for promotion. ~~xxxxxxxxxxxx~~ Post Graduate Degree is prescribed in Column 8 any for Direct Recruitment. The respondents 4 and 5 who were in the feeder category under the Recruitment Rules were promoted, considering their seniority and service records, by duly constituted DPC. The applicant was not considered for promotion as he is junior to the respondents 4 and 5 and did not come within the zone of consideration.

The applicant therefore cannot have any legitimate grievance about the promotion of the respondents 4 and 5. His claim that the respondents could not have been promoted as High School Head Masters because they do not possess Post Graduate Qualification appears to be based on a misunderstanding of the Recruitment Rules. We find that the promotion of respondents 4 and 5 are perfectly in order. The applicant just for the reason that he possesses a Post Graduate Degree is not entitled to claim a promotion out of turn. Probably his qualification may entitle him to apply for direct recruitment subject to the other eligibility criteria such as age limit.

5. In the conspectus of the facts and circumstances, we find that the application is devoid of merits and therefore, we dismiss the same without any order as to costs.


(A.V. HARIDASAN)
JUDICIAL MEMBER


(S.P. MUKERJI)
VICE CHAIRMAN

15.7.1991