

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA 351 of 2007

THURSDAY THIS THE 13th DAY OF MARCH, 2008

C O R A M

**HON'BLE DR. K.B.S. RAJAN, JUDICIAL MEMBER
HON'BLE DR. K.S. SUGATHAN, ADMINISTRATIVE MEMBER**

1 Sainabai D/o Cheriyakoya
Sainaba Manzil,
Kadamat Island
U.T. Of Lakshadweep.

2 Shajahan S/o Siraj
Muhammed Bhavan
Kadamat Island
UT of Lakshadweep.

Applicants

By Advocate Mr. P.K. Madhusoodhanan

Vs.

1 Agricultural Officer
Kadamat Island
UT of Lakshadweep

2 Union Territory of Lakshadweep
represented by its Administrator
Kavaratti Island
Union Territory of Lakshadweep.

3 Union of India represented by
its Secretary, Ministry of Agriculture
New Delhi.

Respondents.

By Advocate Mr. S. Radhakrishnan for R 1 & 2
Advocate Mr. TPM Ibrahim Khan, SCGSC for R-3


The Application having been heard on 4.3.2008 the Tribunal
delivered the following on 13.3.2008:

ORDER

HON'BLE DR. K.S. SUGATHAN, ADMINISTRATIVE MEMBER

The applicants in this OA are aggrieved by their non-selection for wage employment by the respondent No.1. For the purpose of raising good quality coconut seedlings and also implement other agricultural programmes, the respondent No.1 was permitted to engage 40 labourers for a year on temporary and daily wage basis. The respondent No.1 first asked the Village (Dweep) Panchayat to provide a list of 100 labourers from among those registered with the Panchayat. The Dweep Panchayat expressed its inability to provide a list of 100 labourers but instead sent the whole list of 735 persons registered with them. The respondent No.1 thereafter issued a public notice inviting applications directly. It was stipulated in the notice that the persons in the age group of 20 to 40 can apply. The last date for receiving application was 24th Februrary (Saturday). In response to the notice 560 applications were received. On 26th February the respondent No.1 issued a list of 90 persons (A2) who were selected from among the applicants. The applicants of this OA are aggrieved that though they had applied for wage employment in response to the public notice they have not been selected and instead persons who are underaged/overaged have been selected. The applicants have specifically cited that persons listed at serial No.1 is overaged as her date of birth is 15.11.1961. A copy of the birth certificate is also produced. Likewise the person listed at serial No.35 is underaged as per the birth certificate. The applicants have sought the following relief:

(a) declare that Annexure A-2 list is erroneous, illegal and perverse.

(b) issue necessary directions to the respondents to draw up select list afresh strictly in accordance with the stipulations in Annexure A-1 regarding age and eligibility of candidates for selection, at the earliest at any rate, within a time limit to be fixed by this Hon'ble Tribunal.

© Award costs of these proceedings And

(d) Grant such other and further redliefs as this Hon'ble Tribunal deems fit and proper.

2 When the matter came up for hearing on 26th June 2007 the respondents were directed to file reply. On the date of next hearing on 26.7.2007 it was observed that no reply has been filed and the counsel for applicant reported that the impugned list is being operated inspite of instructions issued by the Director of Agriculture. In the circumstances, an interim order was issued by this Tribunal on 26.7.2007 directing that the list at A2 shall be operated upon strictly in conformity with the conditions prescribed in the public notice at A1.

3 The respondents have contested the OA and filed a detailed reply statement. It is their contention that the respondent No.1 is vested with the power to relax the age limit while selecting candidates. For this they are relying on the condition No.4 in the public notice dated 17.2.2007 which sates that 'the agricultural officer will have the right to accept or reject the application.' They have also stated that leaders of various political parties as well as the Dweep Panchayat have appreciated the method in which selection was made. On receipt of some complaints about the selection, the Secretary (Agriculture) constituted a committee consisting of SDO. Kadamat, Chairman Dweep Panchayat, Asst. Veterinary surgeon Kadamat and the Agricultural Officer Kadamat (respondent No.1) to study the genuineness of the selection process and make a report. This Committee scrutinised the records and submitted a report



justifying the correctness of the selection. The requirement of labourers was subsequently reduced from 40 to 6. The engagement of labourers except those appointed on compassionate grounds was stopped with effect from 15.8.2007 on completion of 89 days as permitted by Secretary (Agriculture). Both the applicants belong to reasonably well to do families. The second applicant has not even applied in response to the public notice nor is he registered with Panchayat for wage employment. The name of the person at serial No.1 of the list is not Suharbi as claimed by the applicant. The correct name is Smt. Soodath and her date of birth is 15.1.1963 as per the certificate of the School produced as R1(p). She is on the rolls of the agricultural department on compassionate ground since 1997 under the Plant protection scheme. Persons at serial No.1 to 18 are also engaged on compassionate ground. The person at serial No.35 was given age relaxation because of his poverty. The selection list is in order. The Screening Committee has also endorsed the selection process. The OA therefore deserves to be dismissed.

4 We have heard the learned counsel for the applicants Shri PK Madhusoodhanan and the learned counsel for the respondents Shri S Radhakrishnan. We have also perused the records carefully.

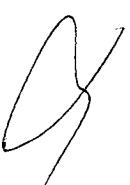
5 The limited issue for consideration in this OA is whether the selection list published by respondent No.1 on 26.2.2007 (R1 (e)/A2 has been drawn up in accordance with the conditions stipulated in the public notice dated 17.2.2007 (R1(d). The text of the notice dated 17.2.2007 is reproduced below:

OK

"A list consisting of 735 persons was received from Panchayat to engage for the temporary work in the Agriculture Unit. Considering the interest of the public etcetera it is decided to call for application directly for the selection of skilled workers to work under different schemes according to the instruction given below:

- 1 The applications in the prescribed proforma enclosed herewith will be accepted directly during the working days and times between 19th to 24th.
- 2 If the applicants name included in the Panchayat list their serial number, ward number etc. shall be mentioned. Those who are not included shall indicate as "Not in the list."
- 3 The applicants shall be in the age group between 20-40 and produce birth certificate or school certificate to prove age.
- 4 The Agriculture officer will have the right to accept or reject the application.
- 5 the work will be on temporary basis and depend upon the availability of fund. Those who are working temporarily at present in the Agriculture Unit can also apply for this.
- 6 It is very clearly stated in the notice that the applicants shall be in the age group of 20 to 40. There is no mention about any age relaxation. There is also no mention about any compassionate appointment. It is admitted by the respondents that the selection list dated 26.2.2007 has been prepared from the applications received in response to the public notice. The following extract from the notice dated 26.2.2007 is relevant in this regard:

"The following labourers selected for agriculture work under various schemes from among the applications received on the basis of the notification published from the Agriculture department. The list of additional labourers required for the schemes proposed to be implemented from April, 2007 will be published on 25th March, 2007.


The complaints and objections if any against the labourers now selected now may be lodged before 05.03.2007."

7 The respondents have admitted in their reply that age relaxations have been given. This has been justified on the basis of the condition number 4 of the public notice dated 17.2.2007 which states that 'the agricultural officer will have the right to accept or reject the application'. The age relaxation given to some candidates have been justified on compassionate considerations. We are unable to accept the contention of the respondents that condition No.4 of the public notice gives the power to respondent No.1 to give age relaxation. If any age relaxation was intended to be given, the categories which shall be entitled to such age relaxation should have been specified. In the absence of any such specific mention about availability of age relaxation, opportunity was denied to several others who could have applied seeking age relaxation. In that view of the matter there is an element of discrimination in the selection process. We are therefore of the considered view that the selection process has been arbitrary and against the conditions stipulated in the public notice.

8 For the reasons stated above, the OA is allowed to the extent that the list at A-2 /R1(e) is quashed. No costs.

Dated 13.3.2008



DR. K.S. SUGATHAN
ADMINISTRATIVE MEMBER

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DR. K.B.S. RAJAN
JUDICIAL MEMBER