

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO. 358 OF 2011

Friday, this the 23rd day of March, 2012

CORAM:

**HON'BLE Mr.JUSTICE P.R.RAMAN, JUDICIAL MEMBER
HON'BLE Mr. K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

Abuhashim C.N
Technical Assistant (contract basis)
DRDA (L), Kavaratti
(Directorate of Rural Development Agency)

... Applicant

(By Advocate Mr. R.Ramdas)

versus

1. The Administrator
Union Territory of Lakshadweep
Kavaratti – 682 555
2. The Director (Services)
Administration of the Union Territory of Lakshadweep
Secretariat, Kavaratti
Union Territory of Lakshadweep - 682 555
3. The Administrator
Administration of the Union Territory of Lakshadweep
Secretariat, Union Territory of Lakshadweep - 682 555
4. The Secretary (Public Works)
Union Territory of Lakshadweep
Kavaratti – 68 555
5. The Superintending Engineer
Public Works Department
Circle Office, Kavaratti
Union Territory of Lakshadweep – 682 555 ... Respondents

(By Advocate Mr. S.Radhakrishnan)

The application having been heard on 23.03.2012, the Tribunal on the same day delivered the following:

ORDER

HON'BLE Mr.JUSTICE P.R.RAMAN, JUDICIAL MEMBER

The Public Works Department, Union Territory of Lakshadweep
Administration invited applications for appointment to the post of Junior

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Engineer on ad-hoc / temporary basis from candidates having the qualification of degree / diploma in Civil Engineering from a recognized University / Institute or equivalent. Annexure A-1 is the notification dated 02.06.2010. Annexure A-2 is the Recruitment Rules published vide notification dated 16.01.1996, Annexure A-3 is the check list prepared for the post of Junior Engineers in Diploma holders and the applicant is at Sl.No.6. Subsequently nothing was done in the matter. All of sudden another notification Annexure A-4 was issued. It is contended that number of vacancies though not mentioned, the notification includes the vacancies advertised by Annexure A-1 also. In the meantime the Recruitment Rules were amended whereby the method of selection was also changed. As per new Recruitment Rules, 50% of vacancies goes to the Diploma holders and 50% to Degree holders. The applicant contended that the new Recruitment Rules is prospective in operation and cannot apply to the vacancies already arisen and advertised by Annexure A-1. According to him, the vacancies which had arisen prior to the new Recruitment Rules, should be filled up by following the criteria as it stood then. Reference is also made to the case of **Madan Mohan Sharma v.State of Rajasthan, 2008 (3) SCC 724.**

2. In the reply statement filed by Respondents 1 to 5 it is contended that qualification as such is not changed by the new Recruitment Rules only method of Recruitment is changed fixing a ratio of 50% to Diploma holders and 50% to Degree holders. It is contended that it is advantageous to the applicant who is a Diploma holder to compete with other Diploma holders only as against to the vacancies earmarked for them.



3. We have heard the counsel on both sides. Whether the modified Recruitment Rules is advantageous or disadvantageous is not the question for consideration. Whether after inviting applications for the vacancies as per Annexure A-1, the method of recruitment is changed; whether that vacancies which arose earlier could be filled up with the new Recruitment Rules arises for consideration. In **Madan Mohan Sharma v. State of Rajasthan, 2008 (3) SCC 724** it has been held that "once the advertisement had been issued on the basis of the circular obtaining at that particular time, the effect would be that the selection process should continue on the basis of the criteria which were laid down and it cannot be on the basis of the criteria which has been made subsequently. Subsequent amendment of the Rules which was prospective cannot be made retrospective so as to make the selection on the basis of the Rules which were subsequently amended.

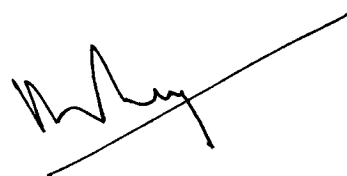
4. In this case, there is no contention that the Rules are retrospective in operation and either side have not produced the rules. That being the position, vacancies which arose prior to the amendment of the Recruitment Rules should be filled up in accordance with the method of selection as per earlier Recruitment Rules and the remaining vacancies should be filled up by following the new method of selection. A declaration to that effect is made.

5. OA is **allowed** as above. No costs.

Dated, the 23rd March, 2012.



K GEORGE JOSEPH
ADMINISTRATIVE MEMBER



JUSTICE P.R. RAMAN
JUDICIAL MEMBER