

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.38/05

Tuesday this the 25th day of January 2005

C O R A M :

HON'BLE MR. A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR. H.P.DAS, ADMINISTRATIVE MEMBER

Mohammed Rias P.P.,
Pallippuram House,
Kavarathy Island,
Union Territory of Lakshadweep, Kavarathy.

Applicant

(By Advocate Mr.Joby Cyriac)

Versus

1. Administration of Union Territory
of Lakshadweep represented by its
Administrator, Kavarathy.
2. The Director of Education,
Union Territory of Lakshadweep,
Kavarathy.

Respondents

(By Advocate Mr.P.R.Ramachandra Menon)

This application having been heard on 25th January 2005
the Tribunal on the same day delivered the following :

O R D E R

HON'BLE MR. A.V.HARIDASAN, VICE CHAIRMAN

The applicant who is a matriculate and holder of Teachers Training Course Certificate (TTC for short) is aggrieved by a provision in Annexure A-3 Recruitment Rules which prescribes 40% marks in the SSLC as also in the Pre Degree Examination as an eligibility condition for appointment to the post of Primary School Teacher and therefore he having not secured 40% marks in the SSLC Examination being ineligible has filed this application for a declaration that the applicant is entitled to be considered for selection for appointment as Primary School Teacher against the vacancies notified in Annexure A-6 in relaxation of Annexure A-3 Recruitment Rules, for a direction to the respondents to consider the candidature of the applicant for such selection and to set aside Annexure A-3 Recruitment Rules to the extent it

prescribe 40% minimum marks in SSLC and Pre Degree for appointment as Primary School Teacher and to the extent it make non TTC/TCH holders eligible for the post. It is alleged in the application that the applicant although did not have 40% marks either in SSLC or in Pre Degree Examination having been sponsored for TTC Course in Kerala by them the respondents are estopped for contending that the applicant is ineligible.

2. We have perused the application and annexures appended thereto and have heard the learned counsel of the applicant as also the learned counsel of the respondents. An identical question came up for consideration before this Bench of the Tribunal in O.As 384/03, 415/03 & 439/03. On a consideration of the rival contention the Bench in paragraphs 5 & 6 of the order held as follows :

5. We have very carefully perused the entire pleadings and documents brought on record and have heard at length. Shri.Nagaresh, learned counsel for the applicants appearing in O.A.Nos.384/03 and 415/03 and Shri.V.D.Balakrishna Kartha the learned counsel for the applicant in O.A.439/03 as also Shri.S.Radhakrishnan, who appeared for the respondents in these cases. From the file which was made available for perusal at the time of hearing we find that while sponsoring the candidates for teachers training in the Institution in Kerala there was no offer or undertaking that on acquisition of the concerned qualification, the sponsored candidate would be appointed. Thus it is evident that for being appointed to the post of Primary Teacher or Trained Graduate Teacher the candidate should possess the educational qualification etc. prescribed in the Recruitment Rules for the time being in force. Shri.Nagaresh, learned counsel for the applicant in O.A.384/03 and O.A.415/03 argued that amendment of the Recruitment Rules earmarking 50% of the vacancies of primary teachers to be filled by Graduate in Education as against the ruling of the Apex Court in P.M.Latha & Anr. Vs. State of Kerala & Ors. 2003 SCC (L&S) 339 and therefore that provision of Recruitment Rules is invalid. On the facts of the case, we find that the applicants are not persons aggrieved by earmarking 50% of the vacancies to the post of Primary Teachers to be filled by Graduate in Education because even if that

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condition was not there yet the applicant would be ineligible because they do not possess the 40% marks required in PDC examination for selection and appointment as Primary Teacher. Further we find that the decision to throw upon 50% of the vacancies for appointment of candidates with degree in education was taken with a view to improve the standard of education and to get better qualified persons to teach upper primary classes. This being a policy decision we are of the considered view that the Tribunal should not interfere. Further, Hon'ble Supreme Court itself has in the decision relied on by the learned counsel for the applicant in P.M.Latha & Anr. Vs. State of Kerala & Ors. 2003 SCC (L&S) 339 observed as follows :-

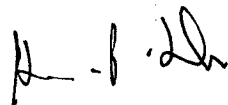
"Whether for a particular post, the source of recruitment should be from the candidates with TTC qualification or B.Ed qualification, is a matter of recruitment policy. We find sufficient logic and justification in the state prescribing qualification for the post of primary teachers as only TTC and not B.Ed. Whether B.Ed qualification can also be prescribed for primary teachers is a question to be considered by the authorities concerned but we cannot consider B.Ed candidates, for the present vacancies advertised, as eligible."

6. In the case under citation, the qualification prescribed for Primary Teachers was only TTC and B.Ed was not prescribed and therefore the Apex Court held that B.Ed candidates were not eligible to be considered. However, we note that the Apex Court has observed that whether TTC qualification is to be prescribed or B.Ed qualification is to be prescribed is a matter of policy. In this case, as a matter of policy the Government of U.T. of Lakshadweep has decided to prescribe B.Ed degree as a qualification for 50% of the vacancies. The argument of the learned counsel for the applicants that this prescription as also prescription of a cut off marks of 40% is opposed to the notification dated 03.09.2001 of the National Council for Teacher Education and therefore is without jurisdiction is absolutely untenable because the said notification does not prohibit prescription of minimum percentage of marks in any examination or any qualification higher than the minimum prescribed for good and sufficient reasons. Therefore, we are of the considered view that the Recruitment Rules and notification which are impugned in these cases are sustainable and not liable to be interfered by the Tribunal. The argument of the applicants that they having been sponsored by the Lakshadweep Administration for Teachers Training throwing them out of the zone of consideration on the basis of cut off marks is unsustainable also has no force because sponsorship and award of scholarship do not confer on them a right to be appointed even if they do not meet the prescribed prescriptions in the Recruitment Rules.

3. We are in respectful agreement with the above view. Since the respondents did not promise that on completion of TTC Course the applicant would be appointed they are not obliged to consider the applicant for appointment as Primary Teacher as the applicant does not satisfy the eligibility conditions under the Recruitment Rules, with which we do not find any reason to interfere.

4. In the result the application is dismissed. No costs.

(Dated the 25th day of January 2005)



H.P.DAS
ADMINISTRATIVE MEMBER

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A.V. HARIDASAN
VICE CHAIRMAN