

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.377/03

TUESDAY THIS THE 2ND DAY OF AUGUST, 2005

CORAM

**HON'BLE MRS. SATHI NAIR, VICE CHAIRMAN
HON'BLE MR. K.V.SACHIDANANDAN, JUDICIAL MEMBER**

U.P.Faridabi, aged 41 years
D/o P.P.Nallakoya Thangal,
Gram Sevika,
Border Area Project,
Andrott, Lakshadweep.Applicant

(By Advocate Mr.P.S.Divakaran (M/s Sukumaran & Usha)

V.

1. Union of India, represented by its
Secretary to Government,
Ministry of Human Resources Development,
Dept. of Women and Child Development,
Sastri Bhavan, New Delhi.
2. The Administrator,
Union Territory of Lakshadweep.
Kavaratti.
3. The Chairman,
Central Social Welfare Board,
Samaj Kalyan Bhavan, New Delhi.16.
4. The Director of Education,
U.T.of Lakshadweep,
Kavaratti.Respondents

(By Advocate Mr.TPM Ibrahim Khan for R.1&3
Mr.S.Radhakrishnan for R. 2&4

The application having been heard on 26.7.2005, the Tribunal on
2....8....2005 delivered the following:

ORDERHON'BLE MRS. SATHI NAIR, VICE CHAIRMAN

The applicant in this O.A. is a Gramsevika working in the Border Area Project sponsored by the third respondent and implemented through the Social Welfare Advisory Board, Kavaratti. She is seeking an appointment to the post of Nursery Trained Teacher in the Primary School situated in the Islands of the Union Territory of Lakshadweep under the Directorate of Education. It is submitted that the Directorate has identified the vacancies of Nursery Trained Teachers and vide fax message of the third respondent some persons similarly situated like the applicant have been given intimation to report for an interview and that one Smt. Sidhi Jubairathbi A.P. who was also working as a Gramsevika on adhoc basis like the applicant in the Border Area Project is seen to have been included as Sl.No.10 in the said message at Annexure.A.6. The applicant is aggrieved that she could not get such an intimation and all the other persons who have been directed to appear for the interview are, according to her, fresh hands whereas in-service candidates like the applicant have not been considered. The applicant has also submitted details regarding the present employment under the Border Area Project and that the Administrator of the Union Territory of Lakshadweep has ordered to fill up the vacancies in the Family and Child Welfare Projects by

giving training to the staff already working in such projects. It is also submitted that she has passed SSLC and possesses all the qualifications for holding the post of Nursery Trained Teacher. It has also been alleged that the 4th respondent has no jurisdiction to effect appointment to the post of Nursery Trained Teachers in nursery schools and hence the notification itself is without jurisdiction.

2. The respondents have denied the averments of the applicant. They have also denied that any final decision has been taken on the absorption of the projects in the ICDS Scheme and also to merge the staff into these scheme as alleged by the applicant. On the question of jurisdiction they have submitted that the nursery schools in the Islands are under the Education Department and the Lakshadweep Administration and as per Section 44 of the Lakshadweep Panchayat Regulation, 1994 the Administrator has issued orders regarding transfer of powers, authority and responsibility regarding Primary Schools to the District Panchayats but the Panchayats are not permitted to appoint staff on their own and the Department of Education will make recruitment as per the existing Recruitment Rules from time to time and the Directorate of Education is the controlling authority of the concerned administrative department. The Department of Education had notified 23 vacancies through the District Employment Exchange, Kavaratti vide requisition dated 18.3.03 and also advertised in the Lakshadweep Times dated

21.3.03. The candidates have to be between 18 and 30 years (relaxable for SC/ST) and with SSLC/Matriculation and training in Nursery and also knowledge of Malayalam. In response to the requisition the District Employment Exchange, Kavaratti furnished list of 66 candidates. In response to the notification in the Lakshadweep Times, the department received 71 applications and the list of candidates was prepared vide Annexure.R.4. The applicant has not applied for the post in response to the notification. As such the department could not consider whether the applicant is qualified for the post or not. There is no question of absorption of any staff in projects under the Social Welfare Board in the Education Department and this fact is not relevant to the issue. The candidate mentioned by the applicant in the O.A. Smt.Sidhi Jubairathbi A.P was called for interview after considering her application in response to the notification and she was found qualified. The applicant is not an employee of the Lakshadweep Administration and hence cannot claim to be an inservice candidate. Hence the applicant's contention that no applications were invited for the post is totally false. The application is bereft of any merit and liable to be dismissed, submit the respondents.

3. The applicant has filed a rejoinder to the reply statement alleging that the notification issued in the Lakshadweep Times cannot be taken as a notification inviting applications. The said

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paper has only circulation in Kavaratti Island and in order to have wider circulation it should have been published in other newspapers also. Coming to know about the existence of vacancies, the applicant had made a representation requesting the administration to absorb the applicant in one among the several vacant posts on 26.3.03(Annexure.A5). Another representation was also submitted after a few days and she was waiting for a reply to the same.

4. We heard the counsel on either side. Learned counsel for the applicant mainly based her argument on the ground that the applicant had been representing before the respondents for absorption even though it was conceded that she had not applied in response to the notification issued calling for applications. The respondents have denied receipt of any such representation. It is seen that the representation submitted by the applicant is for absorption taking into consideration her service as Gramasevika in the Border Area Project. The representation dated 26.3.03 which is addressed to the Administrator, Union Territory of Lakshadweep with a copy to the Secretary, Education Department requests only for absorption as Nursery Teacher on a regular basis and by no means it can be construed as an application submitted against a vacancy notification. Moreover, the applicant has not been able to produce any proof that such a representation was received in the office of the 4th respondent. The requisition to the Divisional Employment

Exchange for filling up 23 vacancies was sent on 18.3.03. It is stated by the applicant that she was already registered in the Employment Exchange. The Divisional Employment Exchange had furnished the list of 66 candidates in which the applicant's name did not find place. In order to ascertain whether the name of the applicant was sponsored by the Employment Exchange, we have verified the particulars of the candidates produced by the respondents at Annexure.R.3. The counsel for the applicant thereupon conceded that considering her Date of Birth she was averaged at the time of calling for the applications, since the upper age limit was 30 relaxable upto five years for SC/ST candidates. The applicant neither applied for the post in response to the employment notification nor was she qualified for appointment against the post of Nursery Trained Teacher. The averments of the applicant in regard to her right for absorption under the ICDS are totally irrelevant in this context as the post for which she is claiming appointment is not under the ICDS Scheme and are posts of Primary Schools under the Directorate of Education. The case of Smt. Jubairathbi who according to the applicant is similarly situated and has been appointed was also verified by us with reference to the particulars furnished by the respondents. It is seen that in the list of candidates at Annexure.R3(i) her name appears at Sl.No.39 and her date of birth is 24.4.1970 and since she is an ST candidate falls within the relaxable age limit of 35 years.

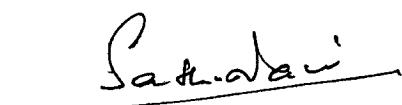
5. In view of the above factual position, the applicant's case is without any merit and is accordingly dismissed. No order as to costs.

Dated this the 2nd day of August, 2005



K.V.SACHIDANANDAN
JUDICIAL MEMBER

S.



SATHI NAIR
VICE CHAIRMAN