

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

OA No. 382 of 2003

Friday, this the 9th day of May, 2003

CORAM

HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER

1. E. Ashraf,  
S/o late Chekkakal Kunhiahmed,  
'Edanilam House' Chetlat Island,  
UT of Lakshadweep.
2. C.N. Shameer,  
S/o K. Attakoya,  
'Cheryan Nallal House' Kalpeni Island,  
UT of Lakshadweep.
3. M.K. Sabidhabi,  
D/o C.N. Mohammed Koya,  
'Mukriakada House' Kalpeni Island,  
UT of Lakshadweep.
4. P.I. Meharunissa,  
D/o Kasmikoya C.N.,  
'Puthiyaillam' Kalpeni Island,  
UT of Lakshadweep.
5. Najeemathbi P.P.,  
D/o Kidave, Puthiya Pandaram,  
Kalpeni Island, UT of Lakshadweep.
6. T.T. Subaida,  
D/o late Nallakoya D, Thaithottam House,  
Kiltan Island, UT of Lakshadweep. ....Applicants

[By Advocate Mr. Shafik MA]

Versus

1. Union of India represented by  
the Administrator, UT of Lakshadweep,  
Kavaratti.
2. The Collector cum Development Commissioner,  
UT of Lakshadweep, Kavaratti.
3. The Director of Education,  
UT of Lakshadweep, Kavaratti. ....Respondents

[By Advocate Mr. S. Radhakrishnan]

The application having been heard on 9-5-2003, the  
Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER

Applicants, six in number, who have applied for the post of TGT (Language) (Malayalam/Hindi) in the scale of pay of Rs.5500-9000 as per Annexure A3 notification, are aggrieved that no Call Letter has been sent to them to take part in the selection process which will be held from 10-5-2003 onwards. Their apprehension is that they are not being permitted to participate in the selection process as they have not produced B.Ed Degree certificates along with their applications. Their case is that they have taken the B.Ed Degree examination in March, 2003 and that the results are expected any time. They have made representations, samples of which are available as Annexure A5 and A6, seeking the Administration to consider them for appearing in the written test and interview and if selected, to give them appointment subject to production of certificate in a time bound manner. Apparently, no action has been taken thereon. The following main reliefs are sought in the Original Application:-

- (i) To call for the records relating to Annexure A-1 to A-6 and to declare that the exclusion of the applicants from even competing in the selection for the post of TGT as per Annexure A-3 notification, is illegal, arbitrary and violative of Articles 14 & 16 of the Constitution of India;
- (ii) To declare that the applicants are entitled to be permitted to be considered for selection to the post of TGT (Language) as per Annexure A-3 notification, under the IIIrd respondent subject to production of the Degree certificate and results; and
- (iii) To direct the respondents to consider the applicants also for selection to the post of TGT, under the IIIrd respondent and to appoint the applicants if selected on production of the results to be intimated confidentially from the University."

9.

2. When the matter came up for admission, Shri S Radhakrishnan taking notice on behalf of the respondents opposed the admission of the Original Application on the ground that as per the notification the required qualification for TGT posts to which the applicants seek appointment is Graduation with Bachelor of Education (B.Ed) with a minimum of 40% marks in each degree. According to the learned counsel for respondents, eligible candidates were to submit applications to the Director of Education, Union Territory of Lakshadweep, Kavaratti so as to reach on or before 15-4-2003 together with proof of age, educational qualifications, etc. It was specifically notified that applications received without the required data and documents like educational qualifications would not be considered. According to the learned counsel for respondents, it is not enough that the applicants should take the B.Ed Degree examination, but should possess the Degree certificate as on the last date for receipt of the relevant applications. He has referred to a catena of decisions of the Apex Court to support his argument that the applicants should have produced the supporting particulars regarding possession of the required educational qualification alongwith their applications, the last date of receipt of which was 15-4-2003. Having not done this, it cannot be considered that the applicants did possess the required qualification as on that date. Learned counsel would particularly referred to the decision of the Hon'ble Supreme Court in Bhupinderpal Singh & Others vs. State of Punjab & Others [(2000) 5 SCC 262], wherein it has been held (at Pp. 268-269):-

"..... (i) that the cut-off date by reference to which the eligibility requirement must be satisfied by the candidate seeking a public employment is the date appointed by the relevant service rules and if there be no cut-off date appointed by the rules then such date as may be appointed for the purpose in the advertisement calling for applications; (ii) that if there be no such date appointed then the eligibility

9.

criteria shall be applied by reference to the last date appointed by which the applications have to be received by the competent authority. The view taken by the High Court is supported by several decisions of this Court and is therefore well settled and hence cannot be found fault with. However, there are certain special features of this case which need to be taken care of and justice be done by invoking the jurisdiction under Article 142 of the Constitution vested in this Court so as to advance the cause of justice.

... In view of several decisions of this Court relied on by the High Court and referred to hereinabove, it was expected of the State Government notifying the vacancies to have clearly laid down and stated the cut-off date by reference to which the applicants were required to satisfy their eligibility. This was not done. It was pointed out on behalf of the several appellant-petitioners before this Court that the practice prevalent in Punjab has been to determine the eligibility by reference to the date of interview and there are innumerable cases wherein such candidates have been seeking employment as were not eligible on the date of making the applications or the last date appointed for receipt of the applications but were in the process of acquiring eligibility qualifications and did acquire the same by the time they were called for and appeared at the interview. Several such persons have been appointed but no one has challenged their appointments and they have continued to be in public employment. Such a loose practice, though prevalent, cannot be allowed to be continued and must be treated to have been put to an end. The reason is apparent. The applications made by such candidates as were not qualified but were in the process of acquiring eligibility qualifications would be difficult to be scrutinised and subjected to the process of approval or elimination and would only result in creating confusion and uncertainty. Many would be such applicants who would be called to face interview but shall have to be returned blank if they failed to acquire requisite eligibility qualifications by the time of interview. In our opinion the authorities of the State should be tied down to the principles governing the cut-off date for testing the eligibility qualifications on the principles deducible from the decided cases of this Court and stated hereinabove which have now to be treated as the settled service jurisprudence. ...."

In view of the absolutely clear declaration of the final legal position on the subject, there is hardly any room for the applicants to agitate, the learned counsel for respondents would submit.

3. I have considered the facts and legal position having regard to the submissions of the learned counsel on either side. In this case, no doubt, the applicants find themselves

9.

in an ~~tantalising~~ situation of having taken the B.Ed Degree examination in March, 2003 and waiting at the threshold of obtaining the Degree certificate. However, as on 15-4-2003 being the last date prescribed for receipt of applications, the applicants have been unable to produce the documents supporting the required educational qualification along with their applications, which means that they are ineligible as on the cut-off date. Thus, as facts stand, the case is squarely covered by the decision of the Apex Court in Bhupinderpal Singh's case [(2000) 5 SCC 262] cited above. The principle enunciated by their Lordships of the Hon'ble Supreme Court is loud and clear. It has been declared that their Lordships' findings be treated as the settled service jurisprudence on the matter.

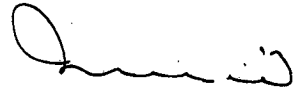
4. In view of the above settled legal position, the Original Application is liable to be rejected in limine.

5. A submission had been made in the course of the arguments by the learned counsel for applicants that in a large number of cases the respondents had allowed persons who have completed the course and were awaiting results to compete in the earlier selection for the post of TGT as well as other posts. The learned counsel has even mentioned the names of some beneficiaries of such treatment. I notice that this happened in 1997 much before the Hon'ble Supreme Court's decision in Bhupinderpal Singh's case cited above was pronounced, although it is to be mentioned that this has happened after several other decisions of the Apex Court on the same point on identical terms that are referred to in the above cited decision in Bhupinder Pal Singh's case. I can only observe that an impermissible departure from the established rules and procedures made earlier cannot be cited as a

precedent giving rise to any enforceable right at a later stage. However, it is for the policy maker to redress any genuine grievance that might arise out of situations like this and this Tribunal would not express any opinion thereon. Suffice to say that on the facts and circumstances of the case, the decision of the Hon'ble Supreme Court cited above shall prevail.

6. In the light of what is stated above, the Original Application is dismissed. No costs.

Friday, this the 9th day of May, 2003



T.N.T. NAYAR  
ADMINISTRATIVE MEMBER

Ak.