

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.383/2003.

Monday this the 31st day of January, 2005.

CORAM:

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

Attabi Baniyam,
D/o N.P.Sayed Ismail Koya,
Baniyam House, Kiltan Island,
Lakshadweep. Applicant

(By Advocate Shri P.Santhosh Kumar)

Vs.

1. The Administrator of
Union Territory of Lakshadweep.
(Director of Education), Kavaratti.
2. The Director of Education,
Kavaratti.
3. M.C.B1, aged 37 years,
W/o Nazeer Hussain,
Melachadam House, Kalpeni,
Union Territory of Lakshadweep. Respondents

(By Advocate Shri P.R.Ramachandra Menon (R.1&2)
(By Advocate Shri TC Govindaswamy (R-3)

The application having been heard on 31.1.2005, the
Tribunal on the same day delivered the following:

O R D E R

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

Learned counsel of the applicant states that the prayer
in Sub-para ii of Para 8 in the O.A. is not pressed.

2. The applicant belonging to Scheduled Tribe of Union Territory of Lakshadweep who has passed P.D.C.as also T.T.C. applied pursuant to a Notification A-1 for selection and appointment to the post of Primary School Teacher in the Scale 4500-7000. Finding that her candidature was likely to be rejected for the reason that the applicant did not get 40% marks in the SSLC/PDC, the applicant has filed this O.A. for a

declaration that the insistence of 40% marks minimum for SSLC/PDC for the post of Primary School Teacher as evidenced by Annexure A-1 is illegal and against the provisions of Kerala Education Act & Rules. The applicant has also prayed for a declaration that the graduates are not entitled for the post of Primary School Teacher which the learned counsel of the applicant stated is not pressed. The applicant has also prayed for a direction to the respondents to consider the applicant for appointment to the post of Primary School Teacher and to set aside the Annexure A-6 Recruitment Rules to the extent it insist a minimum of 40% marks for SSLC/PDC as eligibility condition for appointment as Primary School Teacher. It has been alleged in the application that what is prescribed as per the National Council for Teacher Education (NCTE) is only P.D.C. with no minimum marks stipulated, the prescription of minimum of 40% marks in the Recruitment Rules is unsustainable.

3. The respondents resist the claim of the applicant and have filed a detailed reply statement. It is contended that since the performance of the teachers in school under the Lakshadweep Administration having been found to be not upto the standard, it was decided that prescription of minimum percentage of marks would improve the performance and better the career prospects of the students and it was this end in view that the Recruitment Rules have been amended prescribing a minimum of 40% of marks in SSLC/PDC examinations which may not be interfered with by the Tribunal.

4. On the strength of the interim order the applicant was provisionally allowed to participate in the Selection process.

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5. We have heard the counsel on either side and have also perused all the material placed on record. Learned counsel of the applicant submitted that the applicant's name has been placed in the Rank List (A8) at Serial No.7, that the action on the part of the respondents in prescribing a minimum of 40% of marks in SSLC/PDC being against what is contained in Annexure A-10, (the notification of NCTE) and the same is unsustainable. The applicant's name having been placed in the rank list, learned counsel argued that, it would be inequitable if the applicant is not appointed to the post for which she had been selected. He has also invited our attention to Annexure A-10 wherein the minimum educational qualification prescribed for Primary School Teacher being Pre Degree, the action on the part of the respondents in allowing persons with SSLC/TTC to participate in the process of selection is illegal. The Counsel submitted that, while there are only three persons with PDC who have been placed in the Select List, the action on the part of the respondents in denying appointment to the applicant while appointing those who did not even have PDC qualification is arbitrary and irrational, which calls for intervention.

6. Learned counsel of the respondents on the other hand argued that the prescription of 40% marks for SSLC/PDC was necessary for improving the standard of teachers in the schools of Lakshadweep and that this issue has been considered by the Tribunal in O.A. 384/03, 415/03 and O.A.439/03 and the prescription of 40% as minimum marks for eligibility has been upheld by the judgement dated 4.1.2005. Counsel submitted that this Bench may follow the same decision. Regarding the permission given to those who did not possess PDC qualification

to appear in the selection, the counsel brought to our notice Annexure R-1 (Gazette Notification) issued by the Lakshadweep Administration giving one time relaxation of the provisions of the Recruitment Rules and submitted that there was no illegality.

7. On a careful scrutiny of the materials placed on record and on hearing the learned counsel on either side, we are of the considered view that the prescription of 40% marks in SSLC/PDC as eligibility condition for the post of Primary School Teacher cannot be faulted in the facts and circumstances. Further the identical question was considered by this Bench in O.A.384/03, 415/03 and 439/03 and after considering the facts and circumstances and the question of law it was held that the impugned provision in the Recruitment Rules, was not arbitrary or irrational requiring judicial intervention. We, are in respectful agreement with that view. Permission given to those with SSLC/TTC also is in order since the competent authority has exercised its power to relax the provision in Recruitment Rules by Annexure R-1.

8 In the light of what is stated above, finding no merit the application is dismissed leaving the parties to bear their own costs.

Dated the 31st January, 2005.


H.P.DAS
ADMINISTRATIVE MEMBER


A.V.HARIDASAN
VICE CHAIRMAN

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