

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO. 385 OF 2011

Monday, this the 19th day of November, 2012

CORAM:

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

Ali Manikfan A
Annarugothi, Kudehi Village
Minicoy Island
Lakshadweep

... Applicant

(By Advocate Mr. C.Khalid)

versus

1. The Administrator
Union Territory o Lakshadweep
Kavarathi – 682 555
2. The Director
Department of Tourism Development
Kavarathi – 682 555
3. Salihali DA
Academic Cell
ITI Kavarathi – 682 555
4. Aboona Noufal P.V
Seenathar House
Near Air Tel Tower
Kavarathi – 682 555
5. Abdul Smad V.I
Valiya Illam House
Kavarathi – 682 555

... Respondents

(By Advocate Mr.S.Radhakrishnan (R1&2)
Advocate Mr.V.Varghese (R-3))

The application having been heard on 19.11.2012, the Tribunal on the same day delivered the following:

ORDER

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

Notification inviting application for the post of Inspector in Water Sports was issued as per Annexure A-1 dated 14.02.2011. Three vacancies



were notified. The essential qualification prescribed are (i) pass in 10+2 or its equivalent from a recognized Institution (ii) Conversational ability in English and Hindi and (iii) Certificate in cookery from a recognized Institute which will be examined in Trade Test conducted by Administration or agency authorized by Administration. The select list of three persons were prepared besides waiting list of five. The applicant is the 4th in the waiting list. All the three vacancies have been filled up by appointing the selected candidates. It is contended by the applicant that the party respondents 4 and 5 who were appointed are less meritorious than the applicant, in that the applicant has got experience in swimming whereas the other respondents did not have such experience. It was further contended that subsequently after joining respondents 4 and 5 have left service and therefore the vacancies can be filled up by operating the waiting list. It is further contended that in the notification the procedure for allotment of marks has been marked as 85% for academic merit and 15 % towards experience. This is not mentioned in the Recruitment Rules. Therefore, the additional qualification prescribed is wrong.

2. Respondents would contend that if any candidate leaves the service after joining, it will not be a non joining vacancy, but it can only be a vacancy arising subsequently which has to be notified afresh. As such persons from the waiting list cannot be appointed in subsequent vacancies unless they are notified separately. The qualifications prescribed is strictly in accordance with the Recruitment Rules. It is only the marks * that is prescribed as 85% for academic qualification and 15% for experience. As such, this is not a prescription of any additional qualification but only the method of procedure for allotment of marks so that there may not be any

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arbitrariness of awarding marks. It is also contended that the applicant is only 4th in the waiting list and there is no chance for the applicant to be accommodated. Marks have been awarded strictly in accordance with the rules and meritorious candidates have been selected. It so happened that the persons included in the select list scored more marks than the applicant. As such, applicant has no case.

3. We have heard the counsel on both sides. Three vacancies have already been filled up and the non joining vacancy is a vacancy arising subsequently. As such, the question of operating the waiting list for the subsequent vacancies cannot be warranted. As far as allotment of marks is concerned, it is a procedure and not prescription of any condition and it is the one mentioned in the Recruitment Rules. Admittedly, by awarding marks in accordance with the procedure, the respondents scored more marks than the applicant and necessarily they were included in the select list. The fact remains that the applicant was awarded marks for the experience but he secured less marks in academic qualifications. In the light of the above, we do not find any illegality or arbitrariness in the matter of selection and appointment of candidates to the post advertised. Thus the OA fails and accordingly **dismissed**.

Dated, the 19th November, 2012.



K GEORGE JOSEPH
ADMINISTRATIVE MEMBER



JUSTICE P.R. RAMAN
JUDICIAL MEMBER

VS