

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

ORIGINAL APPLICATION NO: 443/2001

DATE OF DECISION:4/7/2001

Shri Ashokkumar Mohanlal Patel Applicant

Shri I.J.Naik Advocate for  
Applicant.

Versus

Union of India and 2 others Respondents.

Shri V.S. Masurkar Advocate for  
Respondents.

Coram:

Hon'ble Shri Justice B.Dikshit, Vice Chairman  
Hon'ble Smt. Shanta Shastry, Member(A).

1. To be referred to the Reporter or not?
2. Whether it needs to be circulated to  
other Benches of the Tribunal?
3. Library.

*B.Dikshit*

(B.Dikshit)  
Vice Chairman

abp

**CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH  
ORIGINAL APPLICATION NO:443/2001  
DATED THE 4th DAY OF JULY. 2001**

**CORAM: HON'BLE SHRI B.DIXIT, VICE CHAIRMAN  
HON'BLE SMT.SHANTA SHAstry, MEMBER(A)**

Ashokkumar Mohanlal Patel,  
At : Dokmardi Amali,  
Near Government Farm,  
P.O.Silvassa,  
Pin-396 230

... Applicant

By Advocate Shri I.J.Naik

V/s.

1. The Administrator,  
U.T.of Dadra and  
Nagar Haveli,  
Secretariat,  
P.O.Silvassa  
Pin Code - 396 230.
2. The Assistant Director of  
Education,  
Administration of  
Dadra and Nagar Haveli,  
P.O.Silvassa;  
Pin Code - 396 230
3. Union of India through:  
The Secretary,  
Ministry of Home Affairs,  
Central Secretariat,  
North Block - New Delhi.

... Respondents

**(ORAL)(ORDER)**

**Per Shri Justice B.Dixit, Vice Chairman**

Heard Shri I.J.Naik, Counsel for Applicant. The learned counsel for applicant argued that the panel which was prepared sometime in 1993, for appointing teachers in Primary schools, the petitioner was placed at Sr.No.11 on the panel. The argument is that unless that panel was exhausted, no further appointment be made. This question has arisen as the respondents have invited applications for 32 posts:

*B.Dixit*

...2.

2. The panel is prepared against the vacancies which are notified. It has not been stated in the petition as to how many vacancies were notified at the relevant time in 1993. After the appointments were made on all the posts, which were advertised at the relevant time, it appears that the petitioner being at Sr.No.11 did not get appointment in those vacancies. He cannot claim that he should be appointed against vacancies now advertised. The argument that the panel should be exhausted before inviting fresh applications is not sustainable.

3. The learned counsel has relied upon the cases of Ishwar Singh Khatri and Ors V/s. Union of India & Ors reported at (1987)4 ATC 932 and Smt.Nirmal Kumari and Anr. V/s. Delhi Administration and Anr. reported at (1990) 12 ATC 125 in support of his contention that unless panel is exhausted, no further applications could be invited.

4. The two cases are inapplicable. The case of Smt.Nirmal Kumari (supra) has followed the case of Ishwar Singh Khatri (supra). So far as Ishwar Singh Khatri is concerned, there were 654 vacancies, which were to be filled up and the Employment Exchange sponsored about 4000 candidates. Out of them a panel of 1492 candidates was declared. On the basis of this panel, Delhi Administration appointed 527 candidates and offered to appoint another 127 candidates. It is with reference to those vacancies that the petitioner of that case raised grievance which were not being filled up:

4. It is not the case here as here the petitioner has not stated in the petition that out of the vacancies advertised while preparing panel of 1993, some vacancies which were not filled up <sup>and</sup> ~~were~~ have <sup>now</sup> also been included in proposed next selection. In the circumstances, no prima facie case is made out and hence OA is dismissed. No costs.

*Shanta*  
(SHANTA SHAstry)  
MEMBER(A)

*B.Dixit*  
(B.DIXIT)  
VICE CHAIRMAN

abp.