

CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH

Original Application No. 181/00087/2015

Monday, this the 19th day of November, 2018

CORAM:

Hon'ble Mr. E.K. Bharat Bhushan, Administrative Member
Hon'ble Mr. Ashish Kalia, Judicial Member

Shameem Mujthaba A.I., S/o. Kunhikoya Thangal M.P.,
 aged 37 years, residing at Aliyathamada Ishayapura (H),
 Androth.

..... **Applicant**

**(By Advocates : Mr. Saiby Jose Kidangoor &
 Mr. Mohammed Salim)**

V e r s u s

1. Administrator, UT of Lakshadweep, Kavaratti – 682 555.
2. Secretary, Education, UT of Lakshadweep, Kavarathi – 682 555.
3. Director of Education, UT of Lakshadweep, Kavarathi – 682 555.
4. Rasheeda Rahman P.A., P. Arathupara House, Androth,
 Lakshadweep – 682 551.
5. Zeenathunneesa Beegum P.M., Keelapura House, Agatti Island,
 Lakshadweep.
6. Chairman, Central Board of Secondary Education, Shiksha Kendra,
 2, Community Centre, Preet Vihar, Delhi – 110301.
7. The Chair Person, National Counsel of Teacher Education,
 Hans Bhavan, Wing II, 1, Bahadur Sha Zafar Marg,
 New Delhi – 110002.

..... **Respondents**

**[By Advocates : Mr. S. Manu (R1-3),
 Mr. S.P. Aravindakshan Pillai & Mr. S.A. Anand (R4),
 Mr. Shafik M.A. (R5) &
 Mr. Nirmal S. (R6)]**

This application having been heard on 14.11.2018 the Tribunal on
 19.11.2018 delivered the following:

ORDER

Hon'ble Mr. Ashish Kalia, Judicial Member –

The relief claimed by the applicant are as under:

- “i. To quash Annexure A1 and A2 to the extent they relate to respondents 4 and 5;
- ii. to declare that the respondents 4 and 5 are not having the qualifications prescribed for being appointed as Primary School Teacher, Hindi,
- iii. declare that there are no qualified candidates who applied for the post of Primary School Teacher (Hindi) for being appointed in Category I notified under Annexure A4 and that the applicant is entitled to be considered against the said vacancy of Primary School Teacher (Hindi) being the second rank holder among those who applied for Category II, and to direct the respondents to consider the applicant for appointment as Primary School Teacher (Hindi), in the vacancy available in Category I;
- iv. grant such other reliefs as may be prayed for and the court may deem fit to grant, and
- v. Grant the costs of this Original Application.”

2. The applicant is aggrieved by the selection of the party respondents to the post of Primary School Teacher (Hindi) ignoring the fact that they are not qualified for the same and consequential appointment of the 4th respondent to the post in preference to the applicant.

3. The appointment to the post of Primary School Teacher (Hindi) is governed by the Recruitment Rules of Primary School Teachers through which 60% posts are to be filled by persons who passed Central Teaching Eligibility Test, pass in Senior Secondary with 50% marks and pass in Hindi Vidwan/Madhyama Visharad/Praveen courses or any other equivalent recognized courses from a recognized Central/State Board/University/Institution. The applicant has applied for the said post and

he was found eligible and was included in the check list published on 12.12.2014. It is further submitted that respondents Nos. 4 & 5 are only persons qualified in category (1) as per the said check list. However, their qualifications are not in accordance with the Recruitment Rules. Thus according to the applicant there was no candidate qualified in category (1) earmarked for diploma holders. Applicant is rank No. 2 in category (II) and as such he is entitled to be considered for appointment to the said post in category (I) in the absence of any qualified candidate. By illegally accepting the qualification of the party respondents 4 & 5 the applicant's interest was adversely affected. He submitted a representation to the respondents but as there was no response from the respondents he approached this Tribunal seeking the above relief.

4. Notices were issued to the respondents. They entered appearance through Shri S. Manu, learned standing counsel for respondents Nos. 1-3, Shri S.P. Aravindakshan Pillai & Mr. S.A. Anand, learned counsel appearing for respondent No. 4, Shri Shafik M.A., learned counsel appearing for respondent No. 5 and Shri Nirmal S., learned counsel appearing for respondent No. 6. Respondents Nos. 1 to 3 submitted that party respondents Nos. 4 & 5 fulfilled the qualifications mentioned in the Recruitment Rules and employment notification for the post of Primary School Teacher (Hindi). The party respondents attended the personal interview conducted by the recruitment committee and they were selected based on the merit of the candidates in the CTET and personal interview. It is further submitted that the rank list was published in accordance with the

existing Recruitment Rules. Out of 9 candidates applied under category (I), respondents 4 & 5 were found eligible to the post as per the educational qualification for the post of Primary School Teacher (Hindi) - category-I (non-graduates) notified. The party respondents were selected under category (I) of which the qualifications were as under:

“A.1. Pass in the CTET conducted by CBSE,

B.(1)(a) Pass in the Senior Secondary Certificate (Class XII) or its equivalent with at least 50% marks from recognized Board/University.

B.(1)(b) Pass in Hindi Vidwan/Madhyama Visharad/Praveen courses or any other equivalent recognized courses from a recognized Central/State Board/University/Institution.”

It is clear from Annexure A6 check list that respondents 4 and 5 have obtained 53.56% and 64.83% marks respectively for plus two and have passed Visharad and Praveen courses from recognized institution. Hence they are qualified to be appointed as Primary School Teacher (Hindi) under category (I). Respondents pray for dismissing the OA.

5. Heard Shri Saiby Jose Kidangoor & Shri Mohammed Salim, learned counsel appearing for the applicant, Shri S. Manu, learned standing counsel for respondents Nos. 1-3, Shri S.P. Aravindakshan Pillai & Mr. S.A. Anand, learned counsel appearing for respondent No. 4, Shri Shafik M.A., learned counsel appearing for respondent No. 5 and Shri Nirmal S., learned counsel appearing for respondent No. 6. Perused the records.

6. The grievance of the applicant is that his name was put in the wait list though he has also qualified for the said post and in case the private respondents 4 & 5's appointment is declared illegal then he has got a right to

get appointment in category (I). Applicant is having qualification BA Hindi with B.Ed. in Hindi and have 40.38% of marks. As per the Recruitment Rules for category (II) the requirement is BA Hindi with at least 45% of marks and one year Bachelor in Education (Hindi) BEd in accordance with NCTE recognized norms and procedure. The applicant is having only 40.38% of marks was put in waiting list as he has not fulfilled the basic norms. During the course of arguments learned counsel for the applicant submitted that he is a ST candidate and 5% relaxation is granted to him. Be that as it may applicant after getting relaxation cannot claim his right for the unreserved post whereas both the party respondents 4 & 5 fulfilled the eligibility norms under category (I). Thus the allegations of the applicant has no force in the eye of law particularly when he does not possess the basic eligibility for the post. He has no *locus standi* to question the appointment of other candidates when he does not fulfill the basic requirement.

7. In view of the above this Tribunal is of the opinion that the applicant failed to convince us on merits of the present Original Application. Therefore, the OA is liable to be dismissed. We order so. There shall be no order as to costs.

(ASHISH KALIA)
JUDICIAL MEMBER

(E.K. BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

“SA”

Original Application No. 181/00087/2015

APPLICANT'S ANNEXURES

- Annexure A1** - True copy of Rank list No. 18/15/2014-Edn/Estt(1) dated 3.3.2015 issued by the third respondent.
- Annexure A2** - True copy of Order No. 18/15/2014-Edn/Estt(1)/395 dated 9.5.2015 issued by the third respondent.
- Annexure A3** - True copy of relevant schedule in the recruitment rule governing the appointment of Primary School Teacher, Hindi.
- Annexure A4** - True copy of notification No. 18/15/2014-Edn/Estt(1)/1923 dated 7.11.2014.
- Annexure A5** - True copy of check list published by notice No. 18/15/2014-Edn/Estt dated 12.12.2014.
- Annexure A6** - True copy of check list published by notice No. 18/15/2014-Edn/Estt/2035 dated 19.12.2014.
- Annexure A7** - True copy of certificates in Rashtrabhasha Visharad issued by the Dakshina Bharatha Hindi Prachara Sabha to the 4th respondent.
- Annexure A8** - True copy of certificates in Rashtrabhasha Praveen issued by the Dakshina Bharatha Hindi Prachara Sabha to the 4th respondent.
- Annexure A9** - True copy of certificates in Siksha Snathak issued by the Dakshinia Bharatha Hind Prachara Sabha to the 4th respondent.
- Annexure A10** - True copy of certificate in Diploma in Hindi Teaching issued by the Government of Kerala.
- Annexure A11** - True copy of certificate in Rashtrabhasha Visharad issued by the Dakshinabharatha Hindi Prachara Sabha to the 5th respondent.
- Annexure A12** - True copy of mark lists in respect of Rashtrabhasha Praveen issued by the

Dakshinabharatha Hindi Prachara Sabha to the 5th respondent.

- Annexure A13** - True copy of letter No. SRC/NCTE/RTI/Gen/2015/762202 dated 4.8.2015.
- Annexure A14** - True copy of representation dated 25.8.2015 to the first respondent.
- Annexure A15** - True copy of minimum qualification for a person to be eligible for appointment as a teacher in class I to VIII in a school referred in Cl. (N) of Section 2 of Right of Children to Free and Compulsory Education Act, 2009 laid down by the NCTE.
- Annexure A16** - True copy of notification dated 12.11.2014 of NCTE.
- Annexure A17** - True copy of notification dated 23.8.2010 of NCTE.
- Annexure A18** - True copy of Bulletin of CTET-September 2014 Information Bulletin published by CBSE.
- Annexure A19** - True copy of 4th respondent's application for the post of Primary School Teacher (Hindi).
- Annexure A20** - True copy of applicant's CTET Eligibility Certificate issued by CBSE.
- Annexure A21** - True copy of the representation dated 8.10.2016 filed before the CBSE.
- Annexure A22** - True copy of the representation dated 8.10.2016 filed before the NCTE.

RESPONDENTS' ANNEXURES

- Annexure R4(a)** - True copy of Higher Secondary School Certificate Examination (10+2), 2007 of the 4th respondent.
- Annexure R4(b)** - Provisional Certificate of MA degree of 4th respondent.

Annexure R4(c) - Rank Certificate of the 4th respondent.

Annexure R4(d) - Eligibility Certificate of CTET of 4th respondent.

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