

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH**

**O.A No. 181/00049/2015**

Wednesday, this the 14<sup>th</sup> day of March, 2018.

**CORAM:**

**HON'BLE Mr. U. SARATHCHANDRAN, JUDICIAL MEMBER**

**HON'BLE Mr. E.K. BHARAT BHUSHAN, ADMINISTRATIVE MEMBER**

1. Ajmeer Khan T.H, 38 years,  
S/o. Koya K.,  
Stenographer (on contract basis),  
O/o the Sub Divisional Officer,  
Union Territory of Lakshadweep,  
Kiltan Island – 682 558 and residing at  
Thaj House, Union Territory of Lakshadweep,  
Kiltan Island – 682 558.
2. Smt. Beebi Yasina B.T., 25 years,  
W/o. Thahiudheen,  
Deputy Surveyor (on contract basis),  
O/o the Sub Divisional Officer,  
Union Territory of Lakshadweep,  
Kiltan Island – 682 558 and residing at  
Biriyaanthithiyoda House, Union Territory of Lakshadweep,  
Kiltan Island – 682 558.
3. Safvan C.M., 23 years,  
S/o. Kunhimon,  
Chainman (on contract basis),  
O/o the Sub Divisional Officer,  
Union Territory of Lakshadweep,  
Kiltan Island – 682 558 and residing at  
Chempattimada House, Union Territory of Lakshadweep,  
Kiltan Island – 682 558.
4. Riyas R.J.D., 30 years,  
S/o. Yaikunhi K.P,  
Measurer (on contract basis),  
O/o the Sub Divisional Officer,  
Union Territory of Lakshadweep,  
Kiltan Island – 682 558 and residing at  
Ras Jala Darshan House, Union Territory of Lakshadweep,  
Kiltan Island – 682 558. - Applicants

[By Advocate Mr. N. Unnikrishnan]

**Versus**

1. Union of India rep. by the Secretary to the Government of India, Ministry of Personnel and Public Grievances, Department of Personnel and Training, New Delhi – 110 001.
2. The Administrator,  
Union Territory of Lakshadweep,  
Kavaratti – 682 555.
3. The Collector, Revenue Department,  
Collectorate, Union Territory of Lakshadweep,  
Kavaratti – 682 555.
4. The Additional District Magistrate,  
Union Territory of Lakshadweep, Kavaratti – 682 555.
5. The Sub Division Officer,  
Union Territory of Lakshadweep,  
Kiltan – 682 558. - Respondents

[By Advocates : Mr. S. Ramesh, ACGSC for R-1  
Mr. S. Manu for R-2 to 5]

The application having been heard on 06.03.2018, the Tribunal on 14.03.2018 delivered the following

### **ORDER**

**Per: E.K. Bharat Bhushan, Administrative Member**

O.A No. 49/2015 is filed by Shri T.H. Ajmeer Khan and three others, who were working as Stenographer, Deputy Surveyor, Chainman, and Measurer respectively, from 2011 on contract basis. They are aggrieved by the termination of their services ordered as per e-mail/ fax message dated 02.04.2015 (Annexure A-10). Accordingly, their services were discontinued by respondent No. 5 as per Annexure A-11 (impugned). The reliefs sought in the O.A are as below:-

- “i) Call for the records leading to issuance Annexures A-9, A-10 and A-11.*
- ii) Declare that applicants are entitled to be continued as per Annexures A-1, A-3, A-5 and A-7 appointment orders.*
- iii) Declare that the termination of service of the applicants as per Annexures A-10 and A-11 are unsustainable in the eyes of law.*
- iv) Issue appropriate order or direction quashing Annexures A-10 and A-11.”*

2. The applicants had applied against notification issued by the 5<sup>th</sup> respondent calling for appointment of Stenographer, Deputy Surveyor, Chainman and Measurer on contract basis for 89 days with one day break subject to extension. The first applicant was appointed as Stenographer (English) on contract basis on a consolidated pay of Rs. 6500/- per month on 08.06.2011 by the 5<sup>th</sup> respondent (Annexure A-1) and joined service on 14.06.2011. The second applicant joined as a Deputy Surveyor on contract basis on a consolidated pay of Rs. 5500/- per month by order dated 28.02.2011. She joined duty on 01.03.2011. The 3<sup>rd</sup> applicant joined as a Chainman on contract basis on a consolidated pay of Rs. 4500/- per month under the 5<sup>th</sup> respondent on 03.03.2011. The 4<sup>th</sup> applicant was appointed as a Measurer on contract basis on minimum wages applicable to unskilled labourers by order dated 28.02.2011 and he joined duty on 01.03.2011. It is stated that the applicants were working on contract basis, continued without break for the last several years and possess unblemished record of service.

3. On 31.03.2015, the 4<sup>th</sup> respondent issued an advertisement calling for applications for appointment to the post of Stenographer, Deputy Surveyor, Chainman, Measurer and Public Relation Officer for Minicoy on contract basis. The number of post of Stenographer was indicated as 11 and those of Deputy Surveyor/Chainman/Measurer as 30. A walk-in-interview to assess professional ability was to be conducted. Subsequent to this notification, the 4<sup>th</sup> respondent sent e-mail / fax

message on 02.04.2015 to Deputy Collector, Minicoy and Agatti and SDOs of various islands directing them to refer to Annexure A-9 advertisement and to disengage the existing contract staff by 10.04.2015. It was in compliance with this direction that impugned order at Annexure A-11 was issued by respondent No.5.

4. It is maintained by the applicants that the action of the respondents has been arbitrary and discriminatory. They are proposing to substitute one set of professional hands by another set which is not allowed. The applicants have become over-aged and are not eligible for applying for alternate positions now. The reason for resorting to another set of contract appointments when others including the applicants are already working on contract basis is without any rationale. At best, these additional appointments can only be supplementary to those who are already working there and not meant as substitutes. All the candidates, who are applicants herein are eligible and possess necessary experience. In any case, there has been no record of any concern regarding the quality of their service.

5. Per contra, respondents pointed out that as is seen in the appointment orders at Annexures A-1, A-3, A-5 and A-7, the nature of service is clearly defined as temporary and liable to be terminated. They do not confer any claim for regular appointment. The new set of recruits were required to bring necessary professionalism to their task.

The applicants were engaged for the specific purpose of the work relating to Records of Rights under a Centrally Sponsored Scheme and the work relating to the Scheme has now concluded. Annexure A-9 advertisement was meant for all qualified people including all those candidates who were already engaged there. If the applicants wanted, they could have participated in the interview and the reason they kept away was that they were not confident about their professional abilities.

6. The respondents also drew our attention to the judgment in *2012 (1) KHC 397, Jeemon V.R & Ors. v. State of Kerala and Ors.*, wherein the Hon'ble High Court held that :

*“13. .... consistent with the scheme for public employment, unless the appointment is made in terms of the relevant rules and after a proper competition amongst qualified persons, the same would not confirm or confer any right on the appointees. Therefore, any contractual appointment would come to an end at the end of the contract period in terms of the same and in the case of appointment on daily wage basis or casual basis; it would come to an end when it is discontinued.”*

7. We have heard Mr. N. Unnikrishnan, learned counsel for the applicants, Mr. S. Ramesh, learned ACGSC for respondent No. 1 and Mr. S. Manu, learned counsel for respondent Nos. 2 to 5.

8. When the case was heard for the first time on 16.04.2015, an interim order was issued not to implement Annexure A-10, A-11 till the next posting date. This order has been continued from time to time and is still current. The applicants had been working on contract basis on

consolidated payment from 2011 till the present day. There is no evidence brought before us by the respondents that their performance has been below par, warranting their removal from service. The impugned advertisement at Annexure A-9 has called for applications with the same set of qualification as possessed by the applicants. Contract employees cannot place a claim for regularisation, and it is commonly understood that they are required to make room once regular appointments are made and regular incumbents are posted in their place. Here, such a contingency is yet to arise. What is envisaged through the impugned advertisement and the subsequent termination ordered of the applicants' service is replacement of the present set of contract employees with another set of contract workers who will be employed on the same basis. Such a system will easily lend itself open to charges of arbitrariness and undesirable practices. Having stated this, we shall reiterate that the applicants have no claim whatsoever for permanency or regularisation. Yet natural justice demands that they should not be thrown out of their tentative assignments in order to accommodate another set of contract employees. The appropriate course of action would be to recruit people on regular basis as per approved Recruitment Rules, designing a set of eligibility criteria, which would be unimpeachable. Instead, what the respondents have resorted to cannot be countenanced.

9. Facts being so, we conclude that the applicants have merit on their side. We declare that the applicants are entitled to continue on the

same basis as they were appointed initially. They can be replaced once regular appointments are made on the basis of an approved set of Recruitment Rules. The O.A is disposed of as above. No order as to costs.

(Dated, .....March, 2018.)

**(E.K. BHARAT BHUSHAN)**  
**ADMINISTRATIVE MEMBER**

**(U. SARATHCHANDRAN)**  
**JUDICIAL MEMBER**

ax

Applicant's Annexures

Annexure A1	A true copy of Order F.No.1/6/2010-SDO(KTN) 758 dated 08.06.2011 issued by the 5 <sup>th</sup> respondent.
Annexure A2	A true copy of Certificate F. No. 1/1/2012-SDO (Ktn) dated 09.04.2015 issued by the 5 <sup>th</sup> respondent.
Annexure A3	A true copy of Order F. No. 1/6/2010-SDO (KTN) 681 dated 28.02.2011 issued by the 5 <sup>th</sup> respondent.
Annexure A4	A true copy of Certificate F. No. 22/4/2010-SDO (KTN) dated 10.04.2015 issued by the 5 <sup>th</sup> respondent.
Annexure A5	A true copy of Order F. No. 1/6/2010-SDO (KTN) 678 dated 28.02.2011 issued by the 5 <sup>th</sup> respondent.
Annexure A6	A true copy of Certificate F. No. 22/4/2010-SDO (KTN) dated 10.04.2015 issued by the 5 <sup>th</sup> respondent.
Annexure A7	A true copy of Order F. No. 1/6/2010-SDO (KTN) 679 dated 28.02.2011 issued by the 5 <sup>th</sup> respondent.
Annexure A8	A true copy of Certificate F. No. 22/4/2010-SDO (KTN) dated 10.04.2015 issued by the 4 <sup>th</sup> respondent.
Annexure A9	A true copy of Advertisement F. No. 1/7/2012-LR dated 31.03.2015.
Annexure A10	A true copy of Message through e-mail/fax dated 02.04.2015.
Annexure A11	A true copy of order F. No. 13/03/2013-SDO (Ktn) dated 10.04.2015.

Respondents' Annexures

Annexure R2(a)	A true copy of the order F. No. 6/9/2008-SO (Part) dated 04.12.2010.
----------------	--

\*\*\*\*\*



