

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH**

**Original Application No.180/00406/2017**  
**Original Application No.180/00575/2017**

Friday, this the 23<sup>rd</sup> day of March, 2018

CORAM

**Hon'ble Mr. U. Sarathchandran, Judicial Member**  
**Hon'ble Mr. E.K. Bharat Bhushan, Administrative Member**

**Original Application No.180/00406/2017**

Dana Shajahan,  
D/o. Shajahan, Aged 28 years,  
Residing at Cherappurath House,  
Nhamanghat P.O., Vylathur,  
Thrissur – 679 563. .... **Applicant**

**(By Advocate – Mr. P. Nandakumar & Mr. S. Aneesh)**

**V e r s u s**

1. Union of India,  
Represented by Secretary to the Ministry of Information &  
Broadcasting, Shastri Bhavan, New Delhi – 110 001.
2. Director,  
Directorate of Field Publicity,  
Regional Office, Kerala and Lakshadweep, Uppalam Road,  
Thiruvananthapuram - 695 001.
3. The Administrative Officer,  
Directorate of Field Publicity,  
Regional Office, Kerala and Lakshadweep, Uppalam Road,  
Thiruvananthapuram - 695 001. .... **Respondents**

**(By Advocate – Mrs. Mini R. Menon, ACGSC)**

**Original Application No.180/00575/2017**

Nidhin A.S.,  
S/o. Samson G.,  
Soubhagya, Iruthavoor, Ruselpuram P.O.,  
Trivandrum – 695 001. .... **Applicant**

**(By Advocate – Mr. S. Krishnamoorthy)**

**V e r s u s**

1. Union of India,  
Represented by Secretary to the Minister of Information &  
Broadcasting, Sasthri Bhavan, New Delhi – 110 001.
2. Director,  
Directorate of Field Publicity,  
Regional Office-Kerala & Lakshadweep, Uppalam Road,  
Trivandrum – 695 001.
3. The Administration Officer,  
Directorate of Field Publicity,  
Regional Office-Kerala & Lakshadweep, Uppalam Road,  
Trivandrum – 695 001.
4. Principal,  
Director General,  
Directorate of Field Publicity, V<sup>th</sup> Floor,  
Soochana Bhavan, CGO Complex,  
New Delhi – 110 003.
5. Dhana Shajahan,  
D/o. Shajahan, Aged 28 years,  
Residing at Cherapurath House,  
Nhamangat P.O., Vylathur,  
Trissur – 679 563.

**Respondents****(By Advocate – Mr. S. Ramesh, ACGSC (R1 to R4))**

This Original Application having been heard on 15.03.2018, the Tribunal on 23.3.2018 delivered the following:

**O R D E R****Per: E.K. Bharat Bhushan, Administrative Member:**

Since common questions of facts and law are involved in the two Original Applications, they are being disposed of through a common order.

2. O.A. No. 180/406/2017 is filed by Ms.Dana Shajahan, and O.A.No.180/575/2017 is filed by Shri Nidhin A.S. who were aspirants for the post of Field Publicity Assistant under the Kerala

-Lakshadweep Region offices of the Directorate of Field Publicity, Govt. of India. Applicant Ms.Dana Shajahan is aggrieved by Annexure A6 letter dated 16.8.2016 by which the offer of appointment made to her for the post of Field Publicity Assistant vide Annexure A4 Memorandum dated 15.7.2016 was 'put on hold' as per instructions of Directorate of Field Publicity Headquarters. In O.A. 180/575/2017, rival applicant Nidhin A.S. is challenging the Memorandum dated 15.07.2016 which is the offer of appointment issued to Ms. Dana Shajahan, the applicant in O.A.180/406/2017. Nidhin A.S. has arrayed Ms. Dana Shajahan as respondent No.5 in O.A. 180/575/2016.

The reliefs sought in O.A. No.180/406/2017 are:

- i) To call for the records leading to Annexure A6 and quash the same.
- ii) To direct the respondents to permit the applicant to join duty as Field Publicity Assistant at Thiruvananthapuram, forthwith.
- lii) To issue such other orders or directions as this Tribunal may deem fit and proper in the circumstances of the case.

**3.** Applicant in O.A. No.180/406/2017, Ms. Dana Shajahan holds a B.A. Degree in Conventional English and M.A. Degree in Mass Communication. She had applied for the post of Field Publicity Assistant, reserved for OBC candidates, notified by the respondents as per Annexure A1 notice dated 28.3.2016 of the Directorate of Field Publicity. She was invited for Technical-cum-Skill Proficiency Test on 14.7.2016 and was declared successful. Thereupon she was issued with an offer of appointment by letter dated 15.07.2016 by the 3<sup>rd</sup> respondent (Annexure A.4). She reported before the 3<sup>rd</sup> respondent

for duties on 27.07.2016 but was not allowed to join and instead was asked to wait for a few more days. Then she was surprised to be served with a letter dated 16.8.2016 by the 3<sup>rd</sup> respondent (Annexure A.6) informing that her appointment has been 'put on hold' as instructed by the Directorate of Field Publicity, Headquarters.

4. As grounds, she submits that she was qualified and had been selected for the post through a fair selection. She has no knowledge as to the reasons why her appointment has been kept on hold. After issuing her the offer of appointment, the respondents have no right to deny her permission to join duty at Trivandrum. The vacancy of Field Publicity Assistant advertised is a permanent post to be filled up from eligible OBC candidates. The applicant is an OBC and having gone through a rigorous process of selection respondents cannot subvert the process by Annexure A6 letter which is liable to be quashed.

5. Respondents have filed a reply to the O.A. It is admitted that the applicant had been selected to the post of Field Publicity Assistant after prescribed selection procedure and an offer of appointment was also issued to her. However, before her joining duty, Directorate Field Publicity Headquarters had directed respondent No.3 to keep the process 'on hold ' as there were complaints regarding the integrity of the recruitment process. Apart from this, the Headquarters also found that the reservation Roster of Regional Office, Trivandrum was erroneous and there was no backlog vacancy pertaining to OBC category to be filled up. It appears that the post for which the vacancy was advertised by respondent No.3 did not exist at all. The

reservation quota of OBC category was completed in full and there was no backlog. One vacancy of 2012 was available but it had fallen under the category of 'deemed abolished' posts. Hence the Headquarters of Directorate of Field Publicity had taken a conscious decision to scrap the selection process. The respondents have also cited the decision of the Hon'ble Supreme Court in ***Shankarsan Dash v. Union of India, AIR 1991 SC 1612*** which clearly lays down that mere selection does not confer on any person an indefeasible right for appointment. Merely because a person is selected would not mean that he has to be given appointment and the appointment can be stalled for justifiable reasons. Hence respondents pray for dismissal of the O.A.

The reliefs sought in O.A. 180/575/2017 are:

- i. Call for the records leading to Annexure A6 appointment order in favour of 5<sup>th</sup> respondent and to set aside the same.
- ii. Direct the official respondents to issue appointment letter to the applicant pursuant to selection carried out as per Annex-A3.
- iii. To call for the selection file and declare that appointment given to the 5<sup>th</sup> respondent is incorrect and arbitrary and illegal.
- iv. Issue appropriate orders appointing applicant as Field Publicity Officers in the 2<sup>nd</sup> respondent with immediate effect.
- v. Award costs and incidental to this applicant.

6. Applicant in O.A.No. 180/575/2017 is a graduate in Arts who had completed Diploma in Electronic Journalism, possessing experience in handling audio visual equipments. He had applied for the post of Field Publicity Assistant, notified by the respondents (Annexure A3). After a Technical-cum-Skill Proficiency Test, he was declared successful and was put at Rank No.2. It came to the applicant's knowledge that the 5<sup>th</sup> respondent (Applicant in O.A.

No.180/406/2017) who had been selected with Rank No.1 and for whom offer of appointment had been made through letter dated 15.7.2016 had produced a false experience certificate before the Selection Committee. The applicant submits that, thereby, the selection of R.5 was based on erroneous submissions and he being the next candidate in the select list, out to be appointed to the post. Since the respondents did not take any action on his claim, he has approached this Tribunal.

7. As grounds, the applicant states that the experience certificate produced by the 5<sup>th</sup> respondent is fake. Thus, the applicant who is second in the select list is to be appointed disqualifying the 5<sup>th</sup> respondent.

8. *Per contra*, the respondents have filed a reply statement refuting the allegations in the O.A. The notification in question was issued to fill up one vacancy of Field Publicity Assistant reserved for OBC candidates which was vacant from 2012 onwards. The respondents have produced Annexure R.1 whereby Directorate of Field Publicity Headquarters has informed the Director, DFP, Trivandrum that the selection process for Field Publicity Assistant initiated by DFP, Trivandrum *"has been found erroneous and as such has been scrapped by the competent authority in public interest."*

9. In so far as the selection procedure was concerned, there has been no illegality and the submission of the applicant that the experience certificate produced by the 5<sup>th</sup> respondent was fake is a false contention. The second respondent was required to keep the

appointment 'on hold' and later scrapped the selection altogether, on the ground that the said post did not exist, having been abolished under the "deemed abolition" provision. Even if a post had existed the applicant had no right whatsoever to the same. Once a person has appeared for the selection and when he has not been selected he cannot turn around and challenge the process as faulty.

**10.** The applicant has filed a rejoinder reiterating his contentions in the O.A. He has produced a portion of the minutes of the Selection Committee proceedings stating that the panel is to be kept alive for a minimum period of one year from 14.7.2016 and in the event of any vacancy arising during the next one year, the offer of appointment could be made from the aforementioned panel of candidates.

**11.** Heard Shri S.Aneesh, Advocate representing Mr. P. Nandakumar, learned counsel for the applicant and Smt. Mini R.Menon, learned ACGSC appearing for the respondents in O.A. 180/406/2017 and Mr. S. Krishnamoorthy, learned counsel for the applicant and Mr. S. Ramesh, learned ACGSC appearing for the respondents in O.A. 180/575/2017. We have gone through all the documents and records produced by both sides.

**12.** As per admitted facts, a selection procedure had followed the notification that invited applications from eligible candidates for the post of Field Publicity Assistant. Applicant in O.A. No. 180/406/2017 (Respondent in O.A. 180/575/2017) was issued an offer of appointment. She indicated her willingness and also approached the office of R.3 to join duty. It appears that at this stage Directorate

Field Publicity Headquarters were made aware of certain complaints regarding the selection process. Copies of some complaints are at annexure R5 and R6. Possibly due to this R.4 examined the case in detail and came to the conclusion that the post for which the applications have been called and the selection process initiated, did not exist at all. The applicant in O.A. 180/406/2017, the holder of rank No.1 in the select list submits that she is entitled to the posting whereas the applicant in O.A. 180/575/2017 claims the post as his own, on the ground that the other candidate had used unfair methods.

**13.** We are somewhat astonished by the lack of forethought and adhocism with which the respondents have conducted themselves in this selection. Initiating the selection process, offering a candidate appointment and then examining whether there was a post in existence is a clear instance of placing the cart before the horse. We deprecate the lack of professionalism and incompetence exhibited by the official respondents in this case. Negligence on their part has caused a great deal of distress to not only the two candidates who are applicants in the two O.As. but to many others who applied for the post and were compelled to go through this sham.

**14.** Having said this, however, we cannot deny the respondents the right for reconsideration of the process. When the respondent No.4 became aware of the steps taken by R.3, they issued the communication at Annexure R8 bringing the process to a grinding halt. Although the hopes of the applicants particularly that of applicant in O.A.No.180/406/2017, had been raised by the offer of

appointment, given the circumstances of the case, the respondents cannot be compelled to allow her to join duty. As pointed out in the reply statement the judgement of the Apex Court in ***Shankarsan Dash v. Union of India*** (supra) is a relevant decision in this regard.

15. Based on the above facts, we are of the view that the O.A.s are devoid of merit and consequently fail. Accordingly, Original Application Nos. No.180/406/2017 and 180/575/2017 are dismissed. No order as to costs.

16. In view of dismissal of O.A 575/17, M.A No.872/17 stands closed.

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

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

**Original Application No.180/00406/2017**

**List of Annexures of the applicant**

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|--------------|---|--|
| Annexure A-1 | - | True copy of notification dated 28.03.2016 issued by the 2 <sup>nd</sup> respondent.                                 |
| Annexure A-2 | - | True copy of Curriculum Vitae of the applicant.  |
| Annexure A-3 | - | True copy of call letter dated 30.06.2016 issued by the 3 <sup>rd</sup> respondent to the applicant.                 |
| Annexure A-4 | - | True copy of offer of appointment letter dated 15.07.2016 issued by the 3 <sup>rd</sup> respondent to the applicant. |
| Annexure A-5 | - | True copy of letter dated 27.07.2016 submitted by the applicant before the 2 <sup>nd</sup> respondent.               |
| Annexure A-6 | - | True copy of letter dated 16.08.2016 issued by the 3 <sup>rd</sup> respondent to the applicant.                      |

**List of Annexures of the Respondents**

Nil.

**Original Application No.180/00575/2017****List of Annexures of the applicant**

- Annexure A-1 - True copy of the faculty certificate issued by the University of Kerala dated 18.10.2010.
- Annexure A-2 - True copy of certificate in post graduate diploma Electronic Journalism issued by the Institute of Journalism.
- Annexure A-3 - True copy of the notification dated 20.03.2016 published by Malayalam news paper.
- Annexure A-3(a) - True English translation of Annexure A3.
- Annexure A-4 - True copy of the certificate issued by Times of India group to the applicant dated 15.09.2015.
- Annexure A-5 - True copy of the driving license of applicant.
- Annexure A-6 - True copy of the appointment letter dated 15.07.2016 issued to the 5<sup>th</sup> respondent by the 3<sup>rd</sup> respondent.
- Annexure A-7 - True copy of the letter dated 19.07.2016 issued by the Deputy Director (News), Door Darshan Kendra, Trivandrum.
- Annexure A-8 - Relevant portion of the Minutes of the Selection Committee dated 14.07.2016.

**List of Annexures of the Respondents 1 to 4**

- Annexure R1 - Letter dated 14.10.2016 issued by Directorate of Field Publicity Ministry of I and B.
- Annexure R2 - The Minutes of the Selection Committee dated 14.07.2016.

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