

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No.181/00754/2017

Wednesday, this the 14th day of March, 2018

CORAM

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

- | | | | |
|---|--|-------|-------------------|
| 1 | <p>Smt. Thahira B.C.,
W/o. Nizam, Aged 33 years,
Stenographer,
Office of the Sub Divisional Officer,
Union Territory of Lakshadweep, Kadmath,
Residing at Barali Chetta House,
Union Territory of Lakshadweep,
Amini Island – 682 552.</p> | | Applicants |
| 2 | <p>Jalaluddeen M.,
S/o. Muhammed K.C., Aged 37 years,
Working as Deputy Surveyor on contract basis,
Office of Assistant Settlement Officer,
Revenue Section, Kadmath – 682 556,
Residing at Malika House, Union Territory of Lakshadweep,
Kadmat Island – 682 556.</p> | | |

(By Advocate – Mr. N. Unnikrishnan)

V e r s u s

- | | |
|----|--|
| 1. | <p>Union of India,
Represented by the Secretary to the Government of India,
Ministry of Personnel and Public Grievances,
Department of Personnel and Training, North Block,
New Delhi – 110 001.</p> |
| 2. | <p>The Administrator,
Union Territory of Lakshadweep,
Kavaratti – 682 555.</p> |

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,
Kavaratti – 682 555.
6. The Assistant Settlement Officer,
Union Territory of Lakshadweep,
Kadmat – 682 556.

.....

Respondents**(By Advocate – Mr. K.C. Muraleedharan, ACGSC (R1) (not present)****(By Advocate – Mr. S. Manu (R2 to R6)**

This Original Application having been heard on 06.03.2018, the Tribunal on 14.3.2018 delivered the following:

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

O.A No. 754/2017 is filed by Smt. Thahira B.C and another, who were working as Stenographer and Deputy Surveyor respectively, from 2011 on contract basis. They are aggrieved by the Annexure A1 advertisement dated 29.8.2017 issued by the 3rd respondent inviting applications for the posts of Stenographer and Deputy Surveyor/Chainman/Measurer replacing the applicants.

2. The reliefs sought in the O.A are as below:-

- i) *Call for the records leading to issuance Annexure A1.*
- ii) *Declare that applicants are entitled to be continued as per appointment orders issued to them and Annexure A12 till regular selection and appointment is made;*

- iii) *Declare that Annexure A1 is unsustainable in the eyes of law;*
- iv) *Issue appropriate order or direction quashing Annexure A1*
- v) *Issue appropriate order or direction to the respondents to continue the applicants in service till regular selection is made*
- vi) *Issue such other appropriate order or direction as the Hon'ble Tribunal may deem fit and necessary in the interest of justice and fair play.*

2. The applicants had applied against notification issued by the 5th respondent dated 21/12/2010 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 12.7.2011 by the 5th respondent (Annexure A6). The second applicant joined as a Survey Worker under Coastal Zone Regulation under Environmental Protection at Kadamat from 5.5.2003 to 30.5.2003 and he was continued to work as such and then again appointed as Deputy Surveyor in various spells on contract basis. 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 29.8.2017, the 4th respondent issued an advertisement calling for applications for appointment to the post of Stenographer, Deputy Surveyor, Chainman, Measurer from local qualified candidates on contract basis. The number of post of Stenographer was indicated as 8 and those of Deputy Surveyor/Chainman/Measurer as 25. A walk-in-interview to assess professional ability was to be conducted.

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 Annexure A1 does not disclose any reason or rationale to subject the applicants for interview again and again even when the respondents admit their competency, ability, sustainability, efficiency and experience as Stenographer and Deputy Surveyor. 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. The impugned action goes against the decision of the Hon'ble Apex Court in *Piara Singh Vs. State of Punjab* as well as in *Umadevi's case*. At best, these additional appointments can only be supplementary to those who are already working there and not meant as substitutes. Both the candidates 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 2 to 6 pointed out that Annexure A12 makes it clear that the applicants are entitled to continue till regular selection and appointments are made. It is made clear in Annexure A12 that it is decided to re-engage the contractual staff of Survey/Stenographers/PRO, Minicoy for 4 months or till new recruitment process completes, whichever is earlier. In contract appointment, there is no master servant relation and therefore no legal right accrues to the appointees to claim continuance in appointment. They do not confer any claim for regular appointment. They have further stated that the walk

in interview conducted based on Annexure A1 advertisement has already been cancelled as per office order dated 9.10.2017 (Annexure R2(a)). Therefore, this OA has become infructuous.

6. We have heard Mr. N. Unnikrishnan, learned counsel for the applicants and Mr. S. Manu, learned counsel for respondent Nos. 2 to 6.

7. When the case was heard for the first time on 15.9.2017, an interim order was issued not to discontinue the applicants from the current duties until final outcome of this OA. However, the respondents were allowed to proceed with the selection process as notified by Annexure A1. The impugned advertisement at Annexure A-1 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 regularization. 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.

8. Alongwith the reply statement, respondents 2 to 6 have produced an Office Order No. 1/7/2017-LR/Estt/954 dated 9.10.2017 which states:

“Walk in interview conducted on 18.9.2017 for the selection to the post of Stenographer and Deputy Surveyor/Chainman/Measurer on contract basis on a consolidated monthly remuneration is hereby cancelled due to administrative reasons.

This issues with the approval of Hon'ble Administrator, Union Territory of Lakshadweep, Kavaratti vide Diary No.4581 dated 4.10.2017.

*Sd/-
Gaurav Yadav, DANICS
Additional District Magistrate”*

Since the respondents have cancelled the walk-in-interview conducted on 18.9.2017 pursuant to Annexure A1 advertisement for selection to the post of Stenographer and Deputy Surveyor/Chainman/Measurer on contract basis due to administrative reasons and the applicants are continuing on contract basis, nothing remains for consideration in this OA. Hence the OA is disposed of as having become infructuous. No order as to costs.

(Dated 14th March, 2018.)

(E.K. BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

(U. SARATHCHANDRAN)
JUDICIAL MEMBER

List of Annexures of the applicants

Annexure A-1	-	A true copy of Advertisement F. No. 1/7/2012-LR dated 29.08.2017.
Annexure A-2	-	A true copy of Certificate No. 143817 dated 17.06.2010 issued by the Vice Chancellor, Mahatma Gandhi University.
Annexure A-3	-	A true copy of Certificate No. 315158 issued by National Council for Vocational Training, Government of India, Ministry of Labour.
Annexure A-4	-	A true copy of Certificate Reg. No. 10837 issued by the Chairman, Board of Examinations, Lal Bahadur Shastri Education Foundation, Kozhikode.
Annexure A-5	-	A true copy of Employment News File No. 44/16/2010-SDO dated 21.12.2010 issued by the 5 th respondent.
Annexure A-6	-	A true copy of Order F. No. 44/6/2010-SDO dated 12.07.2011.
Annexure A-7	-	A true copy of Certificate F. No. 44/01/2008-SDO dated 10.04.2015.
Annexure A-8	-	A true copy of Office F. No. 1/7/2012-LR dated 18.05.2015.
Annexure A-9	-	A true copy of Certificate F. No. 44/01/08-SDO dated 03.05.2016.
Annexure A-10	-	A true copy of Office Order F. No. 1/18/2012-LR/Estt (2) dated 25.04.2016.
Annexure A-11	-	A true copy of Representation dated 16.09.2016.
Annexure A-12	-	A true copy of E-mail Message F. No. 1/7/2012-LR dated 31.05.2017 issued by the 3 rd respondent office.
Annexure A-13	-	A true copy of Certificate F. No. 12.01.2011-SDO dated 24.08.2017.
Annexure A-14	-	A true copy of Order F. No. 5/41/2015-SDO dated 21.08.2015 issued by Sub Divisional Officer and Returning Officer.
Annexure A-15	-	A true copy of Order F. No. 6/9/2008-SO (Part) dated 04.12.2010 issued by the 3 rd respondent.

Annexure A-16	-	A true copy of Order F. No. 3/4/2010-SDO (KDT)(2) dated 07.03.2011.
Annexure A-17	-	A true copy of Office Order F. No. 3/4/2010-SDO (Kdt)(2) dated 07.03.2013.
Annexure A-18	-	A true copy of Office Order F. No. 1/9/2012-SDO (Kdt) dated 12.03.2013 issued by the Sub Divisional Officer, Kadmat.
Annexure A-19	-	A true copy of Order F. No. 19/13/2014-SDO (KDT) dated 01.04.2014 issued by the Assistant Returning Officer, Kadmat Island.
Annexure A-20	-	A true copy of Office Order F. No. 1/7/2012-LR (Part)(1) dated 01.06.2016.
Annexure A-21	-	A true copy of Certificate No. 111/03 dated 13.10.03 issued by the Deputy Director of Survey & Land Records Department, Government of Kerala.
Annexure A-22	-	A true copy of Certificate F. No. 6/1/96 E&F (Kdt) dated 23.07.2003.
Annexure A-23	-	A true copy of Certificate F. No. 1/1/2008 ASO (Kdt.)(1) dated 12.12.2008.
Annexure A-24	-	A true copy of Certificate F. No. 1/1/2008-ASO (Kdt.)(2) dated 12.12.2008.
Annexure A-25	-	A true copy of Certificate F. No. 1/1/2008 ASO (Kdt.) dated 18.05.2012.
Annexure A-26	-	A true copy of Certificate F. No. 1/1/2008-(Kdt.) dated 05.01.2013.
Annexure A-27	-	A true copy of Experience Certificate F. No. 1/1/2008 ASO (KDT.) dated 13.10.2014.
Annexure A-28	-	A true copy of Certificate F. No. 1/1/2008 ASO (Kadt.) dated 10.04.2015.
Annexure A-29	-	A true copy of Certificate F. No. 9/10/2015-DC (Estt)/764 dated 30.09.2016.
Annexure A-30	-	A true copy of Certificate F. No. 7/5/2015-SDO dated 12.06.2017.
Annexure A-31	-	A true copy of Representation dated 10.09.2017 filed by the first applicant.

- Annexure A-32 - A true copy of Representation dated 05.09.2017 filed by the second applicant.
- Annexure A-33 - A true copy of Interim Order dated 16.04.2015 in OA No. 49/2015.

List of Annexures of the Respondents 2 to 6

- Annexure R2(a) - True copy of the Office Order dated 09.10.2017.

PPS to Member