

CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH

Contempt Petition No. 181/00131/2017
&
Miscellaneous Application No. 181/00836/2017
in
Original Application No. 181/00056/2016

Monday, this the 12th day of February, 2018

CORAM:

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

1. Contempt Petition No. 181/00131/2017 -

Faheema Meherban, aged 25 years, D/o. Aboosala N.,
Meherland, Kadmath, Union Territory of
Lakshadweep - 682 556. **Petitioner**

(By Advocate : Ms. Aysha Rahman & Mr. R.V. Sujith Kumar)

V e r s u s

M.K. Mohammed Aslam, age not known to the petitioner,
S/o. Not known to the petitioner, residing at not known to the petitioner,
Director of Health Services, Directorate of Health Services,
Lakshadweep Administration, Kavaratti - 682 555. **Respondent**

(By Advocate : Mr. S. Manu)

2. Miscellaneous Application No. 181/00836/2017 -

Faheema Meherban, aged 24 years, D/o. Aboosala N.,
Meherland, Kadmath, Union Territory of
Lakshadweep, Pin - 682 556. **Applicant**

(By Advocate : Ms. Aysha Rahman)

V e r s u s

1. The Administrator, Union Territory of Lakshadweep,
Lakshadweep Administration, Kavarathi - 682 555.
2. The Secretary (Health), Union Territory of Lakshadweep,
Lakshadweep Administration, Kavarathi - 682 555.

3. The Director of Health Services, Administration of the Union Territory of Lakshadweep, Directorate of Health Services, Kavaratti, Pin - 682 555.
4. Ms. Shahida A.K., D/o. Badarudheen, Ashiyakkada House, Agathi, Pin - 682 553, Union Territory of Lakshadweep. . . . **Respondents**

(By Advocate : Mr. S. Manu)

This Contempt Petition and Miscellaneous Application having been heard on 23.01.2018, the Tribunal on 12.02.2018 delivered the following:

ORDER

Per Hon'ble Mr. U. Sarathchandran, Judicial Member -

In the Annexure MA1 common order dated 12.1.2017 in OA Nos. 181/56/2016 and 181/471/2017 this Tribunal passed the following order:

" 21. We note that applicant in O.A 56/2016 has got a case for recalculation of SSLC marks and re-assessment of her candidature for the post applied. But it is not for the Tribunal to calculate or make a selection nor is the Tribunal going to do the work of the respondents. Since, respondents are making the selection, they are the persons authorised to do the correct calculation. Since applicant in O.A 56/2016 has raised a genuine plea about the correctness of calculation of her marks, the respondent (competent among the respondents) is directed to re-do the selection for the second post by making a correct calculation of SSLC and ANM marks of the applicant in O.A 56/2016. To do so, applicant will make a representation indicating the specific column in which marks have not been awarded correctly and submit an accurate calculation of SSLC & ANM marks within 15 days of receipt of this order. The respondent going by applicants' representation will do a recalculation of SSLC and ANM marks and arrive at the final percentage of total of SSLC and ANM marks and list the correct candidate for the 2nd position. This is necessary as the revised calculation shown to the Bench appears to be correct; but we leave the task to be done by the respondent, accurately and correctly, as per documents produced in the O.A and the representation to be submitted."

2. The applicant in OA No. 181/56/2016 is the miscellaneous applicant in the above captioned MA No. 181/836/2017 and the petitioner in CP No. 181/131/2017. According to her though she had submitted Annexure MA-2 representation as directed by the Tribunal in Annexure MA-1 order the respondents did not consider the same and are proceeding to give appointment to respondent No. 4 in OA No. 181/56/2016. The respondents

Nos. 1-3 in the MA have filed a counsel statement wherein it is stated that to avoid confusion and ensure transparency the actual mark list was obtained from Pareeksha Bhawan, Trivandrum. Since the applicant has produced the records indicating the grade system only, without mark sheet, the respondents had to obtain the actual marks scored by the applicant in the SSLC examination from Pareeksha Bhawan, Trivandrum. On re-calculation of the actual marks she obtained, it was found that she secured only 57.11% of marks whereas respondent No. 4 in the OA had secured 58.22% marks and as such the position of the applicant in the merit list published by the Department for selection to the post of ANM remains unchanged.

3. This mode of calculation of the actual marks obtained by her was objected to by the applicant. According to her this is a willful refusal on the part of the respondents to comply with the directions of the Tribunal in Annexure MA-1 order. Hence she has filed the above captioned CP seeking initiation of contempt of court proceedings against the respondents.

4. We have heard counsel appearing on both sides. Perused the record.

5. In the afore extracted portion of Annexure MA-1 order passed by this Tribunal there was a clear direction to the respondents to **re-calculate** the marks obtained by the applicant in SSLC examination. The grade system currently followed in the SSLC examination does not reveal the total marks obtained by the candidates but it reflects only the different grades. However, the Recruitment Rules for the ANM required to count the total marks secured by the candidate both for SSLC and ANM examination. However,

the applicant's SSLC certificate with grade system was not revealing the actual marks secured by her for the SSLC examination. The only course open to the respondents was to contact the Pareeksha Bhawan, Trivandrum who conducted the examination and to obtain the marks obtained by her in that examination. That was done by the respondents. We are of the opinion that the course of action taken by the respondents was quite appropriate in tune with the MA1 order.

6. Therefore, we feel that there is no circumstance warranting to initiate contempt of court proceedings under the Contempt of Courts Act, 1971 read with CAT (Contempt of Court) Rules, 1992. Therefore, both the Miscellaneous Application No. 181-836-2017 and the Contempt Petition No. 181-131-2017 are dismissed. No order as to costs.

(E.K. BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

(U. SARATHCHANDRAN)
JUDICIAL MEMBER

"SA"

Contempt Petition No. 181/00131/2017

PETITIONER'S ANNEXURES

Annexure P1 - True copy of the order dated 12.01.2017 in OA No. 56/2016 of this Honourable Tribunal.

Annexure P2 - True copy of representation dated 24.01.2017.

Annexure P3 - True copy of the MA No. 836 of 2017 in OA No. 56/2016 dated 2.8.2017.

Annexure P4 - True copy of the communication bearing number 16/8/2013-DHS dated 14.9.2017.

Annexure P5 - True copy of the postal receipt dated 18.9.2017.

RESPONDENTS' ANNEXURES

Nil

Miscellaneous Application No. 181/00836/2017

MISCELLANEOUS APPLICANT'S ANNEXURES

Annexure MA1 - True copy of order of this Hon'ble Tribunal dated 12.1.2017 in OA 56/2016.

Annexure MA2 - True copy of the representation dated 24.1.2017.

Annexure MA3 - True copy of the letter dt. 04.07.2017 to all the respondents for implementing the order.

MISCELLANEOUS RESPONDENTS' ANNEXURES

Nil

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