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**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH, CIRCUIT AT PORT BLAIR.**

O.A.NO. 351/00425 /2016

2017

IN THE MATTER OF:

An application under section 19 of the Central
Administrative Tribunal Act, 1985.

-AND-

IN THE MATTER OF:

1. Mohd. Shihabudeen S/O Mohd. Haneefa, resident of
Prem Nagar, Tehsil Port Blair, South Andaman district,
present working as Physical Education Teacher in
Ummat Public School, Austinabad, Port Blair.

.....Applicants

-Versus-

1. Union of India Service through the Secretary, Ministry of
Human Resource Development (Education Department),
Govt. of India, Shastri Bhavan, New Delhi 110011.
2. The Lt. Governor, Andaman and Nicobar islands,
Raj Niwas, Port Blair-744101.
3. The Chief Secretary, Andaman & Nicobar Administration,
Secretariat Building, Port Blair 744101.
4. The Secretary-cum-Director (Education)
Andaman and Nicobar Administration, Secretariat
Building, Port Blair 744101.

WLL

Shihab

5. The Deputy Director (Perl.), Directorate of Education, VIP Road, Andaman and Nicobar Administration, Port Blair.
6. Shri S. Suresh Kumar, Deputy Director (Perl.), Directorate of Education, VIP Road, Port Blair.
7. Ms. Sangeeta Mondal, Physical Education Teacher, ST. Marry School, Bhatu Basti, Garacharama, Port Blair, South Andaman District.

.....Respondents.

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No. O.A. 351/00425/2017

Date of order: 5.4.2017

Present : Hon'ble Mr. A.K. Patnaik, Judicial Member
Hon'ble Ms. Minnie Mathew, Administrative Member

For the Applicant : Mr. R. Singh, Counsel
Mr. T.K. Das, Counsel

For the Respondents : Mr. S.K. Mandal, Counsel
Mr. S.C. Misra, Counsel
Mr. K. Rao, Counsel

ORDER (Oral)

Per A.K. Patnaik, Judicial Member:

Heard Mr. R. Singh, Ld. Counsel appearing for the applicant and Mr. S.K. Mandal along with Mr. S.C. Misra, Ld. Counsel appearing for the official respondents and Mr. K. Rao, Ld. Counsel appearing for the private respondents.

2. This O.A. has been filed by the applicant, who is at present working as Physical Education Teacher in Ummat Public School, Austinabad, Port Blair under Section 19 of the Administrative Tribunal Act, 1985 challenging the illegalities committed deliberately and wilfully in totalling the marks under the self-marking procedure of private respondent No. 7 and getting such marks approved for the purpose of getting appointment as Physical Education Teacher, action of the respondent authority in keeping one post of Physical Education Teacher in abeyance under the garb of interim stay order granted in O.A. No. 315/00053/2016 (Raj Kumar v. Union of India & ors.) and against two degrees i.e. Bachelor of Physical Education (one Year Degree Course) and Master's Degree in English obtained simultaneously which are invalid in terms of UGC First Degree and Master's Degree Regulations, 2003. Through this O.A., the applicant has sought for the following reliefs:-

"A) An order be passed directing the respondent authority to call the applicant for verification of his certificates and pursuant thereto to appointment him to the post of Physical Education Teacher.

B) An order be passed directing the respondent No. 3 who is also the Chief Vigilance Officer to hold inquiry for fixing responsibility upon the officers responsible for committing illegalities in the scrutinizing application forms.

Wd

C) Any such order/orders be passed and or direction or directions be given as this Hon'ble Tribunal may deem fit and proper.

D) Cost and incidentals to this application."

3. As per the Ld. Counsel appearing for the applicant, the sum and substance of the dispute are that in response to Recruitment Notice dated 17.4.2015 for filling up of 30 posts of Physical Education Teacher; the applicant submitted an application form annexing relevant certificate for appointment to the said post. He participated in the selection process. Thereafter the respondent authorities published a provisional merit list and in the OBC category his name appeared at Srl. No. 11 and in the overall merit list his name appeared at Srl. No. 48. He preferred a representation stating that the private respondent, Ms. Sangeeta Mondal, did not obtain educational qualification in chronological order as mentioned in the recruitment notice at Srl. No. 22. In O.A. No. 351/00053/2016 the applicant therein namely, Shri Raj Kumar prayed for inclusion of his PG marks in calculation of marks under self-marking scheme and obtained an interim stay. The respondent authorities kept one post vacant in General Category and OBC category in abeyance. Subsequently the applicant came to know from the application filed by the private respondents of the instant O.A. that she had obtained two degrees simultaneously which are invalid in view of UGC First Degree and Master Degree Regulations, 2003, but the officials of the Directorate of Education specifically the Deputy Director (Perl.) has allowed and approved the experience of the private respondents for the purpose of self-marking after the last date of receipt of application form and subsequently approved the self-marking given by the verification team with the sole purpose of getting her appointed on extraneous consideration and to deny him appointment to the post of Physical Education Teacher. The applicant preferred a representation addressed to the Secretary-cum-Director of Education, Shiksha Sadan on 10.3.2016 followed by reminder dated 23.9.2016 addressed to the Deputy Director (Perl.), Directorate of Education, A&N Administration, Port Blair which is still pending consideration.



4. Mr. R.Singh, Ld. Counsel for the applicant submitted that the grievance of the applicant would be more or less addressed if a specific order is passed by directing the concerned authority i.e. respondent No. 4 to dispose of the representation dated 10.3.2016 within a specific time frame.
6. Though no notice has been issued still then we think it appropriate to dispose of this O.A. without waiting for reply by directing the respondent No. 4 that if any such representation have been preferred on 10.3.2016 and the same is still pending consideration, then it may be considered and disposed of by way of a well-reasoned order within a period of three months from the date of receipt of a copy of this order under communication to the applicant and if after such consideration, the applicant's grievance is found to be genuine, then expeditious steps may be taken within a further period of three months from the date of such consideration to extend those benefits to the applicant.
7. We make it clear that we have not gone into the merits of the matter and all points are kept open for the respondents to consider the same as per the rules and regulations in force.
8. A copy of this order along with paper book be transmitted to the respondent No. 4 by speed post for which Mr. R. Singh undertakes to deposit necessary cost in the Registry by Friday.
9. Till the representation dated 10.3.2016 is considered and disposed by the concerned respondent No. 4, the respondents are directed not to take further action in pursuance of the seniority list dated 21.4.2016.
10. With the aforesaid observation and direction, the O.A. is disposed of.

(Minnie Mathew)
Administrative Member

(A.K. Patnaik)
Judicial Member

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