

**CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.**

O.A.210/00412/2017

Dated this Thursday the 25th day of January, 2018.

**Coram: Hon'ble Shri Arvind J. Rohee, Member (J)
Hon'ble Shri R. Vijaykumar, Member (A).**

1. Urvashiben Ratilal Solanki,
(Daughter of Ratilal Solanki)
Working as: Teacher Grade 1
(Contract Basis)
Residing at h.No.1913/1,
ChoroKhireswar, Junigarbichowk,
Ghoghla Diu - 362520
Selected: Asst Teacher Sr.No.64 (Science).
2. Purviben Shantilal Chauhan,
(Daughter of Shantilal Chauhan)
Working as: Asstt Teacher
(Contract Basis)
Residing at H.No.5/280 nr.Pwd office,
Main road Diu - 362520
Mob: 9510599146
Selected: Asst Teacher Sr.No.44 (English).
3. Sumit Meghji Baraiya,
(Son of Meghji Baraiya)
Working as: Upper primary teacher
(Contract Basis)
Residing at H.No.149 jay jalaramkrupa,
Nekheriwadi, vanakbaradiu - 362570
Selected: grade 1 teacher Sr.No.15 (account).
4. Bhavyesh Vira Solanki,
(Son of Vira Solanki)
Working as: Asstt teacher
(Contract Basis),
Residing at H.No.182 vadisheri,
Vanakbara Diu - 362570
Selected: Asst Teacher Sr.No.43 (English).
5. Yatinkumar Bhagvandas Jethwa,
(Son of Bhagvandas Jethwa)
Working as: Upper primary teacher
(Contract Basis)
Residing at H.No.1274/1 l.b.s. Marg,
Ghoghla Diu - 362520
Selected: Asst Teacher Sr.No.12 (Hindi).

6. Suresh Ukarda Charania,
(Son of Ukarda Charania)
Working as: Asstt teacher
(Contract Basis)
Residing at H.No.2526 pinjarasheri,
Vanakbara, Diu - 362570
Selected: grade 1 teacher S.r.16 (accountant) .
7. Dilip Kanji Bamaniya,
(son of Kanji Bamniya)
Working as: Asst Teacher
(Contract Basis)
Residing at : 3500, opp. School Nagao
Diu.
Selected: Asstt Teacher Sr.No.34 (Enblish) .
8. Hemlata Punja Sikotariya,
(Daughter of Punja Sikotariya)
Working as: Primary School Teacher
(Contract Basis)
Residing at H.No.3089 vadlasheri,
Vanakbara Diu - 362570
Selected: Asstt Teacher Sr.No.77 (Sossoci) .
9. Hiren Yogeshbhai Manseta,
(son of Yogeshbhai manseta)
Working as: Upper Primary Teacher
(Contract Basis)
Residing at 9, Prernabhuvan, Totradevi
Diu - 362520
Selected: Asstt Teacher Sr.No.18 (Gujarati) .
10. Jayeshkumar Kishorkumar Chauhan,
(Son of Kishorkumar Chauhan)
Working as: Asst Teacher
(Contract Basis)
Residing at h.No.81/2, bandodkar colony
Ghoghla Diu - 362520
Selected: Asst Teacher Sr.No.39 (English) .
11. Heenaben Babubhai Patel,
(Daughter of Babubhai Patel)
Working as: Govt. Primary School Teacher
(STC)
Residing at 57/3, Patel Palia,
Bhimpore, Nani Daman, Daman
Selected: Assistant Teacher Sr.No.8 (Hindi) .
12. Bhavyata Pravinbhai Prabhakar,
Working as: Self employed
Residing at 10/28, K.K. Marg, Main Road,
Daman, Nani Daman

**Selected: Assistant Teacher Sr.No.32
(English) .**

13. Devangika Ramanlal Baria,
Working as: Govt. Primary School Teacher
(Contract Teacher)
Residing at 54/7, Naav Jampor (Bariyawadi)
Moti Daman, Daman.

**Selected: Assistant Teacher Sr.No.58
(Sanskrit) .**

14. Patel Kinjal Rameshbhai,
Working as Single Window Operator in
Bank of Baroda,
Residing at Kumar Falia, Dabhel,
Daman

**Selected: Grade-I Teacher Sr.No.10
(Accountant) .**

15. Gautamiben Natwarlal Dubla,
Working as Self Employed
Residing at Bhamti, Navi Nagari,
Moti Daman, Daman

Selected: Grade-I Teacher Sr.No.3 (Hindi) .

16. Hiralkumari Natwarlal Patel,
Working as Post Office, Salvav
Residing at 600, Ravtalav,
MotiDaman, Ambawadi, Daman,

**Selected: Assistant Teacher Sr.No.67
(Science) .**

17. Ashmita GovindBhai Patel,
Working as Govt. Primary School Teacher
(STC),
Residing at Patel falia, Bhimpore,
Nani Daman, Daman,

**Selected: Assistant Teacher Sr.No.20
(Gujarati) .**

18. Rahulkumar Kanubhai Thakur,
Working as Grade-I Teacher,
Residing at B-Type Bachelor Quarter,
Fort Area, Moti Daman

**Selected: Grade-I Teacher Sr.No.18
(Accountant) .**

19. Manisha Thakorbbhai Patel,
Working as Upper primary Teacher
(Contract teacher)
Residing at 407, Amran Falia,
Dunetha, NaniDaman, Daman

**Selected: Assistant Teacher Sr.No.76
(Social Science) .**

20. Priyankaben Bhikhubhai Patel,
Working as Govt. Higher Sec. School Grade-I
(S.T.C.)
Residing at 20/4, KH Patel falia,
Janivankad, Daman,
Navi Daman

**Selected: Assistant Teacher Sr.No.71
(Sanskrit) .**

21. Pravinbhai Mohanbhai Patel,
Working as Collectorate,
Moti Daman, MTS.
Residing at C/23, Patel Falia,
Bhimpore, Nani Daman,
Daman-396210.

**Selected: Assistant Teacher Sr.No.23
(Gujarati) .** .. Applicants.

(By Advocate Ms.Dipika Panchmatia).

Versus

1. Union of India, through
the Administrator,
Union Territory of Diu and Daman,
Secretariat Daman,
Daman - 396220.
2. The Administrator for UT Daman
& Diu, Secretariat,
First Floor, Fort Area,
Moti-Daman-396220.
3. The Director of Education,
Directorate of Education,
UT Daman & Diu, Secretariat,
Ground Floor, Fort Area,
Moti Daman - 396 220.
4. The Secretary (Education),
Daman & Diu
UT Administration of Daman
& Diu, Directorate of
Education,
Daman - 396 220. ..Respondents.

**(By Advocate Shri V.S. Masurkar for
respondents and Shri R.G. Walia,
for intervenors).**

Order reserved on : 12.01.2018
Order pronounced on : 25.01.2018.

O R D E R

Per : Arvind J. Rohee, Member (J)

The applicants who claim to be select candidates for the post of Assistant Teachers/Gr.I Teachers in pursuance of the recruitment process initiated by the Respondent No.3 as per the Advertisement dated 25.09.2014 (Annexure A-1), approached this Tribunal in this joint application under Section 19 of the Administrative Tribunals Act, 1985 for seeking the following reliefs:-

"A. This Hon'ble Tribunal may graciously be pleased to issue appropriate orders to the Respondents and direct them to issue OFFER ORDER/APPOINTMENT LETTER to the Applicants herein and which shall be as per the Final Merit List i.e. they shall be given the seniority as per their serial numbers in the Merit List as also their joining date shall be made retrospective from the date of the other candidates from the Final Merit List as mentioned above.

A. That, this Hon'ble Tribunal be pleased to hold and declare that the Applicants are entitled to appointment for Teacher Grade-I and/or Assistant Teacher as their names have appeared in the Merit list issued by the Respondents.

B. That, this Hon'ble Tribunal be pleased to issue appropriate orders to the Respondents and direct them to pay salary to the Applicants from the date the Offer Letter was being

issued to the other candidates in the final list and who have already joined their duty and further direct that the quantum of salary should be the same as it is being paid to the candidates who have been selected for the same subject as the Applicants in their respective final lists.

C. That, this Hon'ble Tribunal be pleased to issue appropriate orders to the Respondents and direct them to produce the papers and proceedings as also to clarify and put on oath as to the manner in which and on what basis and consideration the few of the other candidates have been issued Offer Letter and who have already joined their duty.

D. Any other reliefs deemed fit and proper in the circumstances of the case may kindly be granted.

E. Allow the ORIGINAL APPLICATION with cost."

2. Various grounds are raised in the O.A. It is stated that although the names of the applicants are included in the select panel published on 16.01.2016, appointment orders are not issued to them so far and the applicants are surprised as to why further steps are not being taken by the respondents towards finalisation of selection process. It is mentioned in the select panel that the list is subject of outcome of O.A.170/2015, O.A.724/2015 and O.A.41/2016 pending before this Tribunal.

3. The respondents by reply resisted the O.A. and expressed their inability to issue the offer of appointment to the applicants on the ground that interim protection is granted by this Tribunal to the applicants in the aforesaid OAs, who are engaged on contract basis and the same assignment is continued by virtue of the interim order passed by this Tribunal. Hence so long as the aforesaid OAs are not decided in favour of the respondents or interim protection is not withdrawn, it is not possible to issue appointment orders, although the applicants find place in the select panel.

4. The record shows that the applicants have submitted representations to the respondents, however, for the reasons stated above the same could not be favourably considered. It is stated that the appointment orders, however, were issued to the reserved category candidates only against the quota prescribed for them.

5. On 12.01.2018 when the matter is called out for hearing of the O.A. and of M.P.No.682/2017 filed by Shri R.G. Walia, learned Advocate seeking permission to intervere in the matter on behalf of 25 intervenors.

6. After hearing the learned Advocate for the parties, learned Advocate for the proposed

intervenors seeks permission to withdraw the said M.P. In view of this the M.P. Stands dismissed as withdrawn.

7. We have heard Smt.Dipika Panchmatia, learned Advocate for the applicants and reply arguments of Shri V.S. Masurkar, learned Advocate for the respondents on merits of the O.A.

8. This O.A. is the offshoot of various other pending OAs pertaining to the Advertisement dated 25.09.2014, in which the very selection process has been challenged and other group of OAs filed by the contractual Teachers for regularization of their long standing services. Some of the contractual Teachers find place in the select list. However, this Tribunal in number of OAs granted interim protection to their continuance on contract basis and the said order is still in force. All the 3 OAs mentioned in the select panel as well as few other pending OAs are ripe for final hearing and steps are being taken to conclude the same at the earliest on the persistent persuasion of learned Advocate for the respondents, obviously for the reason that the interim order is operating against them and inspite of completing the recruitment process they could not give appointment to the select candidates for no fault of their own and on the contrary the

contractual candidates are enjoying the fruits by virtue of interim protection.

9. However, considering the reliefs sought by the applicants, although they find place in the select panel, it is the settled law that there is no fundamental right of appointment, although there is a fundamental right to be considered for appointment. It is obvious that the applicants were accordingly considered and found fit to be included in the select panel. However, it is obvious that since interim protection is granted by this Tribunal in couple of OAs in which regularization is claimed and in few O.As in which recruitment process itself is challenged on the grounds that it violated the rules or is not in accordance with the rules, at this stage no relief can be granted to the applicants. It is needless to say that fate of this O.A. depends on the outcome of the 3 O.As mentioned in the select panel as well as other O.As pending before this Tribunal for final hearing, in which the interim order is still in force.

10. In such circumstances of the case no relief can be granted to the applicants at this stage in this O.A. In one sense it may be stated that O.A. is premature, since there is nothing on record to show that in absence of the two main

hurdles / obstacles in the way of the applicants for issuance of the offer of appointment, no other grounds are raised on the basis of which inaction on the part of the respondents in issuing the offer of appointment can be said to be illegal or improper.

11. From the above discussion, we are of the considered view that at this stage no relief can be granted to the applicants and they will have to wait till the final outcome of the 3 O.As mentioned in the select panel as well as few other O.As pending before this Tribunal in which interim relief from termination of contractual service is granted and which are also pending for final hearing.

12. In view of the above factual position, the O.A. simply stands disposed of without granting any relief to the applicants at this stage.

13. The parties are, however, directed to bear their respective cost of this O.A.

(R. Vijaykumar)
Member (A)

(Arvind J. Rohee)
Member (J) .

H.