

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
(CIRCUIT AT PORT BLAIR)

No. O.A. 351/00104/2015

Date of order : 18.4.2016

Present : Hon'ble Justice Shri Vishnu Chandra Gupta, Judicial Member
Hon'ble Ms. Jaya Das Gupta, Administrative Member

SUNIL KR. KUJUR & ORS.

VS.

A & N Administration (Education)

For the Applicants : Md. Tabraiz, Counsel

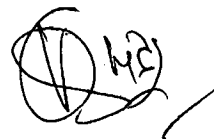
For the Respondents : Mr. S.K. Mandal, Counsel
Mr. S.C. Misra, Counsel

ORDER (Oral)

Justice Shri Vishnu Chandra Gupta, Judicial Member:

We have heard Ld. Counsel for the applicant and Ld. Counsel for the respondents.

2. The applicant being eligible for consideration for the post of Physical Education Teacher in school governed by the Andaman & Nicobar administration applied for the post in terms of notification issued for recruitment by way of direct recruitment. The applicants claiming themselves to be sports persons participated in National level and wants that weightage should be given while making the process complete for recruitment. The rules for recruitment of Physical Education Teacher are known as Andaman & Nicobar Administration, Department of Education (Gr. 'B' Non-Gazetted post in the Directorate of Education), Recruitment Rules, 2006. The schedule appended to this recruitment rules prescribe recruitment rules for the post of Physical Education Teacher, Directorate of Education. The educational and other qualifications required for direct recruitment is given in Column No. 8, which provides:



Essential:

- 1) Bachelor's Degree in Physical Education from a recognized University or its equivalent


Or

Any Bachelor's Degree with one or two years Diploma/Certificate in Physical Education.

- 2) Knowledge of Hindi is essential.

Desirable:

- 1) Master's Degree in the subject concerned.
- 2) Three years experience from a recognized institution.
- 3) Participation in some sports, games and events at National level.
3. The method of recruitment as mentioned in Column No. 11 is 100% by direct recruitment.
4. A notice of recruitment was published for the aforesaid posts, which is annexed as Annexure A-1. According to it a form prescribed which may be obtained. The format has been given in page 39 of the O.A. In Column No. 10 of this format marking system has been provided for education qualification and experience. It has been contended that no benefit of weightage has been given to the participants in sports at National level, though the post is attached with physical education. The applicants thus made a representation to the Lieutenant Governor, Andaman & Nicobar Islands, Raj Niwas, Port Blair which was annexed as Annexure A-5 at page 52 dated 5.5.2015. Similar representations were given by other persons. The process of recruitment has not been completed. The relief has been sought to make the necessary amendment in the rule granting weightage to sport persons. So far as the present recruitment rules are concerned, how the process of direct recruitment shall be completed has not



been given. Whether there is any standing order specifying the process of selection or not? No such standing order has not been brought on record either by the applicant or by the respondents.

5. No reply has been filed on behalf of the respondents in this case. A copy of the judgment of the Hon'ble Calcutta High Court in WPCT No. 413 of 2015, Jeeshan Iman & others. Vs. Union of India &ors. (Circuit Bench at Port Blair) has been brought to the notice of the Court by the respondents on the basis of which it has been submitted that no mandamus can be issued against the applicant commanding to amend the rules. In this judgment, the controversy was that the rules for appointment of Physical Education Teachers by Central Government to Secondary Education and eligibility criteria for recruitment of Physical Education Teachers in School governed by A&N Administration were not in conformity. The Hon'ble Calcutta High Court after going through the inconsistencies, while disposing of the matter set aside the order of the Tribunal whereby direction was issued to the administration to frame recruitment rules in terms of the guidelines of Central Board of Secondary Education. However, considering the inconsistencies between the two rules it was held that it was in the realm of administration to remove such discrepancy but mandamus should not be issued commanding the Administration to amend the Rules. On the strength of this, Ld. Counsel for the respondents submits that direction as prayer for in the O.A. cannot be issued to the Administration.

6. It is interesting that without any known process of direct recruitment, format to apply for the post has been published giving certain weightage to the educational qualification and experience which has not been given in the recruitment rules. Normally the department issues standing orders after approval of the administration prescribe the procedure for selection. No such standing



order has been issued. If there is no standing order then how the weightage marks has been given for educational experience is not known to the Tribunal.

7. In view of the above, we are of the firm view that the representation of the applicant for granting weightage to the sports persons who participate in different sports on National or International level may be referred to the concerned authorities for consideration and for issuance of appropriate orders for completing the process of selection in terms of recruitment rules within a period of three months from the date of receipt of a copy of this order along with copy of the representation.

8. However, the process of recruitment would subject to the decision taken by the authorities.

9. With this observation, the O.A. is finally disposed of at the admission stage. There shall be no order as to costs.

(Jaya Das Gupta)
MEMBER(A)

(Vishnu Chandra Gupta)
MEMBER(J)

SP