

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA
CIRCUIT AT PORT BLAIR

No. O.A. 351/1378/2018
M.A. 351/952/2018

Date of order: 4/1/2019

Present : Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

Ms. K.P. Kanimozhi,
Aged about 34 years,
D/o Shri P.R. Karuppaiah,
Resident of Shadipur, Port Blair,
South Andaman.

Applicant

V E R S U S -

1. The Union of India,
Through the Secretary to
The Government of India,
Ministry of Human Resource Development,
Department of Education,
Shastri Bhawan,
New Delhi - 110 001.
2. The Lieutenant Governor,
Andaman and Nicobar Islands,
Port Blair - 744 101.
3. The Chief Secretary,
Andaman & Nicobar Administration,
Port Blair - 744 101.
4. The Secretary-cum-Director,
Director of Education,
Andaman and Nicobar Administration,
Secretariat,
Port Blair - 744 101.
5. The Director,
Directorate of Education,
Andaman & Nicobar Administration,
Port Blair - 744 103.
6. The Deputy Director (Peri.),
Directorate of Education,
Andaman & Nicobar Administration,

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Port Blair – 744 103.

.. Respondents

For the Applicant : Ms. A. Nag, Counsel

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

O R D E R

Per Dr. Nandita Chatterjee, Administrative Member:

Ld. Counsel for both parties are present.

2. The applicant is an aspirant to the post of Graduate Trained Teacher (Life Science) – Tamil Medium in terms of the advertisement dated 22.11.2014.

The applicant had earlier approached the Tribunal in O.A. No. 351/00109/2015 in which she had sought relief in the form of directions for incorporation of her name in the merit list for the post of GTT (Life Science) – Tamil Medium and for appointment to the post thereon, after holding that, as per qualifications, the applicant is eligible in terms of the recruitment rules. The O.A. was disposed of on 6.10.2015 with the following directions:

"Accordingly, the O.A. is disposed of with a direction that the A&N Administration shall take necessary steps to consult with an expert body within a period of six weeks from the date of receipt of a copy of this order and take a decision on this issue and communicate the same to the applicant concerned and in the event of any positive decision being taken in favour of the applicant, the remedial measures be extended in favour of the applicant."

Thereafter the respondent authorities had formed an Expert Committee which recommended as follows:-

"... a candidate having degree in any allied biological subject such as Microbiology, Biotechnology, Bioinformatics etc. is eligible for the post of GTT (Life Science) if he/she has studied any one subject out of Botany, Zoology during 3 years of graduation."

And, accordingly, the respondent authorities, on the basis of such recommendation, observed that as the applicant did not study Botany or Zoology in any of the six semesters during her Graduation, her candidature was not

[Signature]

suitable for appointment to the post of GTT – Life Science. This decision was conveyed in the form of a speaking order dated 23.4.2018 to the applicant.

Presently, the applicant has approached the Tribunal seeking quashing of such speaking order and her Ld. Counsel presses, in particular, for an interim relief staying operation of such order, debarring the authorities from appointing any candidate to the post of GTT (Life Science) – Tamil Medium till disposal of the instant O.A. or directing the respondent authorities to keep one post of GTT (Life Science) vacant till disposal of the Original Application.

3. The Hon'ble Apex Court in *University of Mysore v. C.D. Govinda Rao AIR 1965 SC 491* and in *Dalpat Abasaheb Solunke v. B.S. Mahajan AIR 1990 SC 434* has repeatedly emphasized that in a selection process, the Court should be slow to interfere with the opinion expressed by the experts. Further, in *Neelima Misra v. Harinder Kaur Paintal (Dr.) AIR 1990 SC 1402* the Hon'ble Apex Court ruled that when an appointment has been made based on recommendations of experts, judicial review is limited to overseeing whether the appointment had contravened any statutory or binding rule and the Court should have due regard to the opinion expressed by the experts constituting the selection committee and its recommendation.

In this matter, it is not the applicant's case that the statutory or binding recruitment rules have been violated, rather she has approached the Tribunal for claiming her eligibility in terms of the recruitment rules and particularly on the strength of her Bachelors in Science in Microbiology. Given the ratio held in above judicial pronouncements, we do not deem it necessary to interfere with the recommendations of the Expert Committee that in order to qualify for the post of GTT (Life Science) the candidate has to study at least one subject out of Botany or Zoology during three years of Graduation.

From the advertisement issued on 22.11.2014 (Annexure A-3 to the O.A.) it is seen that there are three General vacancies for the GTT (Tamil Medium)

post and there would be many aspirants including the candidate for the same. To stay the appointment of GTT (Life Science) (Tamil Medium) on account of an apparently ineligible candidate would imply injustice towards the otherwise eligible candidates who are also in need of employment and would violate the concepts of "equality" as enshrined in the Constitution.

4. We, therefore, do not find that a *prima facie* case has been made out for withholding appointment to the post of GTT (Life Science) Teachers in Tamil Medium as advertised on 22.11.2014 on account of the applicant's prayer. We also do not deem it fit to stay the speaking order of the respondents dated 23.4.2018 as it was based on the recommendations of an Expert Committee whose expertise is not subject to evaluation by the Tribunal.

Accordingly, we do not deem it fit to issue any interim order at this stage.

The O.A. may be listed before Next Circuit. Meanwhile, reply and rejoinder be filed by the respondent and applicant respectively.

(Dr. Nandita Chatterjee)
Administrative Member

SP

(Bidisha Banerjee)
Judicial Member