

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH
CIRCUIT BENCH SITTING
AT KAVARATTI
UT of LAKSHADWEEP**

Original Application No.181/00749/2016

Thursday, this the 28th day of February, 2019

C O R A M :

**HON'BLE Mr.E.K.BHARAT BHUSHAN, ADMINISTRATIVE MEMBER
HON'BLE Mr.ASHISH KALIA, JUDICIAL MEMBER**

Thasleenabi.M.C.,
D/o.M.C.Basheer,
Mullachetta House,
Kavaratti Island, Lakshadweep.

...Applicant

(By Advocate – Mr.Joby Cyriac)

v e r s u s

1. Administrator,
Union Territory of Lakshadweep,
Kavaratti – 682 555.
2. Secretary,
Department of Printing and Stationery,
Union Territory of Lakshadweep,
Kavaratti – 682 555.
3. Director, Printing and Stationary,
Lakshadweep Administration,
Union Territory of Lakshadweep,
Kavaratti – 682 555.
4. Rahmathulla M,
Melachedan House,
Kalpeni Island,
U.T of Lakshadweep – 682 557.

...Respondents

(By Advocates Mr.S.Manu [R1-3] & Mr.Rohith.R. [R4])

This Original Application having been heard on 15th February 2019,
the Tribunal on 28th February 2019 delivered the following :

ORDER

HON'BLE Mr.E.K.BHARAT BHUSHAN, ADMINISTRATIVE MEMBER

O.A.No.181/749/2016 is filed by Smt.Thasleenabi.M.C., seeking appointment as Masdoor under the Lakshadweep Government Press in accordance with Annexure A-1 Employment Notice. She seeks the following reliefs :

1. To call for the original records leading to Annexure A-5 Check List and quash the same.
2. To direct the respondent Nos.1 to 3 to make selection to the post of Mazdoor, notified by Annexure A-1 employment notice, as per Annexure A-4 Check List.
3. Such other order or direction as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.

2. The applicant had applied for the post of Mazdoor in response to the Employment Notice dated 11.9.2012, a copy of which is produced and marked as Annexure A-1. The Notification was published in line with the Recruitment Rules for the post notified by the 1st respondent vide notification dated 30.1.2010 (Annexure A-2). The educational and other qualifications required for direct recruitment were described in the said notification as (1) a pass in SSLC/Equivalent (2) minimum one year experience in Printing trade and (3) pass in trade test to be conducted by the Administration at the time of selection. It is submitted in the O.A that there were 13 eligible candidates including the applicant for the trade test which was conducted on 16.1.2014. Thereafter on 9.5.2016, what was described as a final check list, was published based on the marks obtained in trade test (Annexure A-4). By scoring 12.5 marks out of 15, the applicant stood first

and was eligible to be appointed in the notified post. The applicant was under the bonafide belief that she will be receiving her appointment order and was surprised to see that another final check list was published based on the aggregate marks obtained in the trade test as well as the basic educational qualification of SSLC on 12.8.2016 by the 3rd respondent. A copy of this check list is at Annexure A-5. The 4th respondent who could only secure 6 marks in the trade test was seen placed as No.1 in the rank list/check list after aggregating his marks in the trade test as well as basic educational qualification.

3. The contention of the applicant is that Annexure A-5 check list is illegal. It is alleged that the criteria for selection was altered by the authorities after the process of selection had commenced. It is averred that the final check list published in the first instance was the actual list to be followed and the second 'final' list wherein the element of weightage for basic academic qualification was included, was without any legal sanction. Being a worker from the technical side, skill in the works should be given higher weightage and the marks obtained in the academic qualification has no bearing or use considering the nature of work of a Mazdoor. The Hon'ble Apex Court in **Bihar State Text Book Workers Union v. State of Bihar & Anr. 2037 SCC 238** had deprecated the action of the respondents therein for introducing new criteria after selection process had commenced, as illegal.

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4. Respondents have filed a reply statement wherein the facts of the selection have not been disputed. However, it is stated that Annexure A-4 was the initial list of the performance of the candidates during the trade test and it was through an inadvertant mistake that it was mentioned as being the final check list. It is submitted that the selection of candidates for Group C posts is always on the basis of educational qualification/experience. The department as per order dated 28.4.2007 had taken a decision to constitute a Recruitment Committee for each and every case of recruitment separately in order to evolve a criteria for awarding marks to the candidates. It was also stipulated in that order to assign not less than 85% of the total marks to the essential qualification stipulated in the Recruitment Rules and up to 15% of the total marks to desirable qualifications/experience/higher qualification. A copy of the order dated 28.4.2007 is at Annexure R-1(a). The marks acquired for the basic educational qualification along with those acquired in the trade test, reduced to a weightage of 85:15 was incorporated and a final check list, a copy of which is at Annexure A-5, was published. It was in strict conformity with Annexure R-1(a) and Annexure R-1(b) that Annexure A-5 final check was published and therefore that check list is in order.

5. The Department has not violated any rule or law while publishing Annexure A-5 check list. Due consideration has been given to the essential qualifications for the post of Mazdoor as mentioned in the Recruitment Rules which are (i) a pass in SSLC/equivalent (2) minimum one year experience in printing trade (3) pass in trade test to be conducted

.5.

by the Administration at the time of selection. The Recruitment Rules prescribed only educational qualifications and other qualifications required for direct recruitment and do not prescribe the method of recruitment. So long as Annexure R-1(a) and Annexure R-1(b) are not in violation of Annexure A-2 Recruitment Rules there is no valid reason for this Tribunal to interfere.

6. The applicant has filed a rejoinder wherein the contentions made in the O.A have been reiterated. She lays stress on para 1 of Annexure R-1(a) which states *“The department concerned may conduct the selection of candidates for the Group 'C' posts on the basis of educational qualifications/experience only without conducting tests/interviews wherever the Recruitment Rules of the posts in question do not provide for holding of any tests/interviews.”* The respondents are estopped from publishing Annexure A-5 check list in view of Annexure A-4 being the final check list. The true copy of the related file notings of F.No.1/6/2012-LGP at Annexure A-6 and Annexure A-6(a) would show that Trade Test Committee had been appointed with the approval of the 2nd respondent and thereafter the test was conducted on 16.1.2014. Hence there is no relevance to the claim of the respondents that Annexure A-4 published was a mistake. It is claimed in the rejoinder that the Recruitment Rules have been violated by having a set of new parameters introduced in selection.

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7. Heard Shri.Joby Cyriac, learned counsel for the applicant. He strongly argued that the selection should be as per Annexure A-4 rank list where only the marks obtained in the trade test have been made the criteria. The respondents, by introducing the element of weightage for academic qualifications, are guilty of violating the terms in the Recruitment Rules. The Recruitment Committee had made the selection based on which Annexure A-4 had been published. All that remained in the process was to issue the appointment order. Instead the respondents are guilty of thwarting the rightful claim of the applicant by having another Committee go into the question, which in turn introduced a new element, not authorized in the Recruitment Rules. The act of the respondents on this score is not in conformity with the directions of the Hon'ble Supreme Court in the case referred to in the O.A.

8. Shri.S.Manu, learned standing counsel on behalf of the respondents argued that Annexure A-4 was only the result of one such selection. It is wrong to suggest that a new element has been introduced after the rank list was finalised. On the contrary, as per notings which are seen in Annexure A-6 series it had been decided to assign 85% weightage for essential qualifications and 15% for the trade test, well before the trade test was even conducted. The only fault on the part of the respondents is in assigning the term 'final' to the rank list of the trade test.

9. We have considered the issue in detail as reflected in the written documents as well as in the oral pleadings made by either side. The charge of having introduced a new element after the process of selection has started is indeed a serious charge and we have delved into it in some detail. It is seen that the trade test was conducted on 16.1.2014. The entire process involved has been clearly described in the detailed file notings available to us under Annexure A6 series. The employment notice was issued on 11.9.2012 and a file in this regard F.No.1/6/2012-LGP commences with the noting on 17.7.2012. Well before the conduct of the trade test, the Assistant Executive Engineer (Electrical) as per his noting on 11.9.2013 records as follows :

“.....It may not be fair to consider marks in the trade test alone as a criteria for selection.....If we evolve criteria at later stage, selection process may not be fair, transparent and may lead to litigations. Therefore, the department may please review the case and complete the formalities before conducting trade test to avoid litigations in future.”

10. Ultimately the proposal is put up for assigning 85% for essential qualification and 15% for trade test. The said proposal was approved by the Administrator on 21.11.2013, nearly two clear months before the trade test was conducted. So it is not justified on the part of the applicant to claim that the weightage issue was introduced after the selection had been completed and the 'final' list published. Nor is it that 85:15 ratio is new. Infact it appears in order dated 28.4.2007, a copy of which is available at Annexure R-1(a), which describes the weightage given for essential qualification and desirable qualifications in the same proportion. The applicant in the rejoinder has quoted a part of this circular

which essentially works against her own interest. The second question to be considered is whether the respondents were justified in assigning weightage as mentioned. The Recruitment Rules is silent on the issue. It has only mentioned three necessary qualifications, namely, the basic educational qualification, the experience factors and a pass in the trade test. The respondents were well within their mandate to assign weightage which according to their best judgment helps to correctly assess the eligibility of the candidates. This, they have done well before the trade test was conducted.

11. After examining the whole issue in detail and giving due consideration to the pleadings made by the contending counsel, we dismiss the O.A as lacking in merits. There shall be no order as to costs.

(Dated ts the 28th day of February 2019)

ASHISH KALIA
JUDICIAL MEMBER

E.K.BHARAT BHUSHAN
ADMINISTRATIVE MEMBER

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List of Annexures in O.A.No.181/00749/2016

- 1. Annexure A1** - A true copy of the Employment Notice F.No.1/6/2012-LGP/681 dated 11.9.2012 issued by the 3rd respondent.
 - 2. Annexure A2** – A true copy of the Recruitment Rules namely Lakshadweep Administration, Department of Printing and Stationary (Group C Technical) Recruitment Rules, 2010 published vide notification dated 30.1.2010.
 - 3. Annexure A3** – A true copy of the request of the applicant dated 31.12.2015 furnished before the 1st respondent to publish the Check List of the candidates who appeared for the Trade Test pursuant to Annexure A-1 Notification.
 - 4. Annexure A4** - A true copy of the Check List published vide notice F.No.1/6/2012-LGP dated 9.5.2016.
 - 5. Annexure A5** - A true copy of the Check List along with Notice F.No.1/6/2012-LGP/484 dated 12.8.2016 published by the 3rd respondent.
 - 6. Annexure A6** - A true copy of the entire file noting of F.No.1/6/2012-LGP dated 9.9.2016.
 - 7. Annexure A6(a)** – A true copy of the covering letter No.F.No.10/02/2013 – LGP/561 dated 9.9.2016 issued along with Annexure A-6.
 - 8. Annexure R1(a)** – A true copy of the order F.No.12/37/2005 – Services dated 28.4.2007 issued by the Secretary (General Administration and Services), Union Territory of Lakshadweep.
 - 9. Annexure R1(b)** - A true copy of the order F.No.12/28/2013 – Services dated 11.12.2013 issued by the Director – (Services).
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