

**Central Administrative Tribunal
Ernakulam Bench**

OA No.181/00063/2015

&

OA No.181/00069/2015

Thursday, this the 20th day of December, 2018

C O R A M

Hon'ble Mr. E.K.Bharat Bhushan, Administrative Member

Hon'ble Mr.Ashish Kalia, Judicial Member

OA No.181/00063/2015

Mohammed Irshad P., aged 28 years

S/o Sayeed Mohammed

Pattakal House, Agatti Island

Union Territory of Lakshadweep.

Applicant

[Advocate: Mr.T.C.Govindaswamy]

versus

1. The Administrator
Union Territory of Lakshadweep
Kavaratti-682 555.
2. The Director of Education
Union Territory of Lakshadweep
Kavaratti-682 555.
3. Hakeem K.K.
S/o Ibrahim K.S.,
Kottayakal, Kadmat
Union Territory of Lakshadweep.
4. Mohammed Irfan P.P.
S/o Dr.M.Mullakoya
Pittiyapuram, Kiltan
Union Territory of Lakshadweep.
5. Noohabanu M.K.
D/o Attakidave K.P.
Mathil Kadannallal, Kalpeni
Library & Information Assistant
Public Library, Kavaratti-682 555
Union Territory of Lakshadweep.

6. The Secretary, Education
Union Territory of Lakshadweep
Kavaratti-682 555.

Respondents

[Advocates: Mr. S.Manu for R1&2 and Mr.Arunraj S for R3&4]

OA No.181/00069/2015

Fabeena Roshan N.M., aged 25 years
W/o Kunhi Koya
Noormahal House, Kadamat Island
Union Territory of Lakshadweep-682 556.

Applicant

[Advocate: Mr.T.C.Govindaswamy]

versus

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Union Territory of Lakshadweep
Kavaratti-682 555.
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Union Territory of Lakshadweep.
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Union Territory of Lakshadweep
Kavaratti-682 555.

Respondents

[Advocates: Mr. S.Manu for R1&2 and Mr.Arunraj S for R3&4]

These OAs having been heard together on 18th December, 2018, the Tribunal delivered the following order on 20th December, 2018:

ORDER

By Ashish Kalia, Judicial Member

In these two cases, the applicants are aggrieved by the denial of a fair consideration for the post of Junior Librarian by inclusion of ineligible candidates namely, respondents 3 to 5. They seek the following reliefs:

- (i) *Quash Annexures A2, A3 and A5 to the extent they include the respondents 3 to 5.*
- (ii) *Direct the 2nd respondent to prepare a list of qualified candidates in place of Annexure A3 and conduct interview to cover the 10% of the weightage marks, strictly as per the mandate and spirit of the qualification prescribed under Annexure A1.*

2. Facts in brief are that the applicants who are residents of the Union Territory of Lakshadweep applied for the post of Junior Librarian in response to Employment Notice dated 25.9.2014 issued by the 2nd respondent, viz., The Director of Education, UT of Lakshadweep, Kavaratti. Their applications were duly accepted by the 2nd respondent. The applicants underwent the selection process by qualifying in the Teacher Eligibility Test (TET) mentioned in the selection criteria in Annexure A1(b) and they completed 90% of the weightage of marks. The notice containing the marks obtained at the TET that formed 90% of the selection process by way of weightage of marks conducted through Cochin University of Science & Technology is produced as Annexure A3. The qualification prescribed therein is “Bachelor of Library Science” or “+2 or its equivalent” and with certificate in Library Science of not less than 10 months duration from a recognized University. “Master of Library Science” without the Bachelor's degree in Library Science is not recognized as the basic qualification

for the post of Junior Librarian as per Annexure A1(a). Therefore, Annexure A2 final list and Annexure A3 in so far as they contain the names of respondents 3,4 & 5 who are holders of 'Master of Library Science' are bad in law, contrary to Annexure A1 notification and not permissible under the Recruitment Rules for the post of Junior Librarian. It is stated that personal interview to cover the 10% of weightage of marks is yet to be conducted by the 2nd respondent. Respondents 3 to 5 have been wrongfully and illegally included in Annexure A2 final list even though they do not possess the basic Bachelor's Degree in Library Science. The applicants submitted representations which were replied to by way of Annexure A5 communication which stated that the inclusion of respondents 3 to 5 is not against the Recruitment Rules. Hence the applicants have approached this Tribunal by way of present OAs.

3. Notices were served on the respondents. The respondents filed reply statements, contending that certain candidates who passed Master of Library Information Science (MLISc) from the Calicut University also applied for the post of Junior Librarian. Those candidates had produced an order dated 14.1.2009 from the Calicut University which made it clear that MLISC (2 year) degree course of University of Calicut could be considered as an alternative qualification for the posts for which Bachelor of Library Information Science (BLISc) was prescribed as an essential qualification. On that basis, the respondents considered the candidature of the aspirants who had submitted applications with MLISc (2 years) certificate issued by the Calicut University. The department had prepared and published the check list of the candidates who had applied for the post of Junior Librarian and directed the candidates to submit their objection/claims, if any, on or before 31.12.2014 at 4 p.m. But no

objections were received from any candidate against the inclusion of candidates having MLISc within the stipulated time. Therefore, the department published the final check list for the post in question by way of Annexure A2 notice. It is further contended that the department had entrusted the Cochin University of Science & Technology (CUSAT), to conduct the Teacher Eligibility Test (TET) including preparation of question paper, conducting the examination and OMR evaluation answer sheets. CUSAT had conducted the TET on 16.5.2015 and published the result on 3.6.2015 as per Annexure A3. Six candidates were qualified in the test including the applicant and the respondents 3 to 5 who possessed MLISc from the University of Calicut. It is further contended that the selection is not based upon the marks secured either in BLISc or MLISc. It is based on the marks secured in TET and the interview. Therefore, the name of the course undergone by the candidates may not have much relevance as far as the selection is concerned. The respondents have cited the following judgments in support of their stand:

- (i) [2010] 15 SCC 596: *Jyoti K.K. And others vs. Kerala Public Service Commission.*
- (ii) [1998] 7 SCC 273: *Dr.Duryodhan Sahu & Ors vs. Jitendra Kumar Misra & Ors.*
- (iii) [2002] 6 SCC 252: *State of Rajasthan vs. Latha Arun*

In the latter decision, the Apex Court had held that “it is not for Courts to determine whether a particular education possessed by a candidate should or should not be recognized as equivalent to the prescribed qualifications”. Citing the aforesaid judgments, the respondents have prayed for dismissal of the OAs.

4. Heard Mr.T.C.Govindaswamy, learned counsel for the applicants and Mr.S.Manu for the official respondents and Mr.Arunraj S, learned counsel for the private respondents, at length and perused the records.

5. Learned counsel for the applicants emphasized that the selection of respondents 3 to 5 is bad in law, being contrary to Annexure A1 notification in regard to the qualification clause for the post of Junior Librarian. There is no provision in the Recruitment Rules to enable the respondents to select persons without the basic qualification of Bachelor of Library Information Science. The University of Calicut has no authority to prescribe alternative qualification in the notification. We are not in agreement with the contention put forth by the learned counsel for the applicant. Rather, the University alone is empowered to prescribe which course is equivalent or higher in degree, as done in the present case.

6. On a careful reading of the provisional certificate, it is seen that MLISc is a two year integrated (Semester) Course, having detailed studies on the subject. Even the University has recommended its adoption by all departments in future for the said post. Respondents 3 to 5 possess the MLISc and 50% marks in Plus 2 whereas the requirement in the Recruitment Rules is only BLISc having only one year course. Certainly, this Tribunal is not competent to state which course is better for which post and we cannot question the wisdom of the University concerned. As per Annexure R1(b), the Board of Studies in Library Science discussed the question of considering MLISc (2 year) degree as an alternative qualification for posts for which BLISc is prescribed as an essential qualification and resolved that MLISc (2 year) Degree course of Calicut University be considered as an alternative qualification for the posts for which BLISc is prescribed as an essential qualification. The Board of Studies also expressed the

view that this has become all the more necessary in view of the fact that many Universities in the country have switched over from one year BLSC course to 2 year MLISc integrated course. We are in agreement with the judgments cited by the respondents. It is not in the domain of the Tribunal to find which qualification possessed by a candidate should or should not be recognized, rightly done so by the respondents. Apart from this, the applicants have not assailed the selection on any other counts. We find that the present OAs are devoid of merits. Accordingly these OAs are dismissed. No order as to costs.

(Ashish Kalia)
Judicial Member

(E.K.Bharat Bhushan)
Administrative Member

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Annexures filed by the applicant in OA 63/15:

- Annexure A1: Copy of Employment Notice F No.18/10/2014-Edn/Estt (1)1878 dated 25.9.2014 issued by the 2nd respondent.
- Annexure A2: Copy of final check list for the post of Junior Librarian published by the 2nd respondent bearing F.No.18/10/2014-Edn/Estt/219 dated 5.2.2015.
- Annexure A3: Copy of weightage of marks conducted through Cochin University of Science & Technology and published as per F.No.18/10/2014-Edn/Estt dated 3.6.2015.
- Annexure A4: Copy of representation dated 5.6.2015 addressed to the Secretary, Education submitted by the applicant.
- Annexure A5: Copy of Office Memorandum bearing F.No.18/10/2014-Edn/Estt/426 dated 10.6.2015.

Annexures filed by the respondents:

- Annexure R1(a): Copy of the relevant pages of Recruitment Rules for the post of Junior Librarian dated 1.2.2011.
- Annexure R1(b): Copy of the order No.GA1/B1/2297/2000-II(i) dated 14.1.2009.
- Annexure R1(c): Copy of the Notice F.No.18/10/2014-Edn/Estt dated 9.12.2014.
- Annexure R3(a): Copy of the provisional certificate dated 31.10.2013 and the degree certificate issued to the 3rd respondent dated 22.2.2014 by the University of Calicut.
- Annexure R3(b): Copy of the order dated 6.11.2004 issued by the Registrar of Calicut University.
- Annexure R3(c): Copy of the Syllabus of the Integrated MLLSc two year course and that of one year BLISc one year course.
- Annexure R3(d): Copy of the consolidated mark list of the 3rd respondent.
- Annexure R3(e): Copy of the order dated 14.1.2009 of the University of Calicut.

Annexures filed by the applicant in OA 69/15:

- Annexure A1: Copy of Employment Notice F No.18/10/2014-Edn/Estt (1)1878 dated 25.9.2014 issued by the 2nd respondent.
- Annexure A2: Copy of final check list for the post of Junior Librarian published by the 2nd respondent bearing F.No.18/10/2014-Edn/Estt/219 dated 5.2.2015.
- Annexure A3: Copy of weightage of marks conducted through Cochin University of Science & Technology and published as per F.No.18/10/2014-Edn/Estt dated 3.6.2015.
- Annexure A4: Copy of representation dated 5.6.2015 addressed to the Secretary, Education submitted by the applicant.
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- Annexure R1(c): Copy of the Notice F.No.18/10/2014-Edn/Estt dated 9.12.2014.
- Annexure R3(a): Copy of the provisional certificate dated 31.10.2013 and the degree certificate issued to the 3rd respondent dated 22.2.2014 by the University of Calicut.
- Annexure R3(b): Copy of the order dated 6.11.2004 issued by the Registrar of Calicut University.
- Annexure R3(c): Copy of the Syllabus of the Integrated MLLSc two year course and that of one year BLISc one year course.
- Annexure R3(d): Copy of the consolidated mark list of the 3rd respondent.
- Annexure R3(e): Copy of the order dated 14.1.2009 of the University of Calicut.