

**Central Administrative Tribunal
Madras Bench**

MA/310/00234/2012 (in)(&) OA/310/01608/2013

Dated the 13th day of June Two Thousand Nineteen

P R E S E N T

**Hon'ble Mr. P.Madhavan, Member(J)
&
Hon'ble Mr.T.Jacob, Member(A)**

V.Lalitha
W/o K.Leneesh,
East Palloor, Chokli Post,
Mahe 670 672.
By Advocate **Mr.R.Saravanan**

.. Applicant in MA & OA

Vs.

1. The Union of India, rep by the
Secretary to Government,
Education Department,
Government of Union Territory of Puducherry,
Chief Secretariat,
Puducherry 605 001.
2. The Director of School Education,
Perunthalaivar Kamarajar Centenary Educational Complex,
100 Feet Road, Anna Nagar,
Puducherry 605 008.
3. The Chief Educational Officer-cum-
District Programme Co-ordinator SSA,
Government of Puducherry,
Mahe 673 310.
4. Saleema V.M.,
Govt. Lower Primary School,
Post Pandakkai,
Mahe 673 310.
5. Anila Kirithiparambath

- Govt. Lower Primary School,
Palloor North Post Naluthara,
Mahe 673 320.
6. Roja Bai V.M.,
Pre-Primary Govt. Lower Primary School Chembra,
Post Paral, Mahe 670 671.
7. Preetha M.K.
Usman Govt. High School,
Chalakkara, Post New Mahe 673 311.
8. Shamitha K.P
Govt. Lower Primary School,
Palloor West, Post Palloor,
Mahe 673 311.
9. Kala J.C.
Govt. Lower Primary School,
Mahe 673 311.
10. Amcy Aravindhan,
Avroth Upper Primary School,
Post Chokli, Mahe 670 672.
11. Savjath V.
Govt. Lower Primary School,
Cherukallayi,
Post New Mahe 673 310.
12. Divya K.
Usman Govt. High School,
Chalakkara, Post New Mahe,
Mahe 673 311.
13. Mini P.P.,
Govt. Lower Primary School,
Moolakadav,
Post Pandakkal,
Mahe 673 310.
14. Uma Sankari M.,
Govt. Lower Primary School,
Moolakadav,
Post Pandakkal,
Mahe 673 310. .. Respondents in MA & OA

By Advocate **Mr.R.Syed Mustafa(R1-3)**

ORDER

[Pronounced by Hon'ble Mr.P.Madhavan, Member(J)]

This is an OA filed seeking the following relief:-

“(a) Call for the records on the file of the respondents 1 to 3 relating to the selection of the respondents 4 to 14, more specifically the appointment orders bearing Ref.No.53/SSA/TPST/Engagement/2009 dated 18.11.2009, passed by the third respondent and set aside the selection and appointment of respondents 4 to 14 as Pre-primary school teachers;

(b) consequently direct the respondents 1 to 3 to conduct selection in accordance with law and consider the case of the applicant in accordance with law;

(c) award costs;

(d) and pass such further or other orders and thus render justice.”

2. In brief the applicant's case is as follows:-

The applicant is possessing SSLC and Diploma in Child Care and Education. The respondents in this case had issued a notification on 26.9.2006 for filling up of 9 posts of Pre-Primary School Teacher in Mahe area and the qualification prescribed was SSLC with one year Certificate/Diploma course or equivalent for the selection of the said post. The applicant applied for the said post and she was called for certificate verification as per Annexure A2. The applicant appeared and produced his certificates for verification. Thereupon, the applicant was called for an interview as per Annexure A3. In the meanwhile, the respondents had issued GO Ms. No.109

dated 09.10.09 by which the pay and allowances of the Pre-Primary School Teacher and Recruitment Rules were framed. The applicant states that though the advertisement was issued in the year 2006, the respondents have now selected respondents 4 to 14 as Pre-Primary School Teacher as per order dated 18.11.2009. The selection of the respondents 4 to 14 was arbitrary and it was done in clandestine manner. The respondents did not follow the rules contained in the advertisement and the selection was done in arbitrary manner. The appointment of R2 to 14 is arbitrary and illegal. So, the applicant prays for the above relief. The applicant also filed MA 234/12 for condoning delay of 499 days in filing the OA. The said MA was considered alongwith the OA for the purpose of convenience.

3. The respondents appeared and filed a detailed statement denying the averments in the OA. According to them, the application was filed after inordinate delay and no satisfactory explanation is offered for the delay and it is barred by limitation under Section 21 of the AT Act. They admitted the notification issued for the selection of Pre-Primary School Teacher and they also admitted the qualification fixed for the post. According to them, the delay for selecting the final list occurred due to heavy pressure of work and administrative reasons. According to them, out of total 81 candidates, only 63 came with certificates. After certificate verification, 58 candidates were found eligible. After conducting an interview, 9 candidates were selected for the post of Pre-Primary School Teacher and 4 candidates were kept in the waiting list. Altogether 12 candidates were appointed as per order dated 18.11.09. The applicant

was not successful in coming up in the selection list and more than 2 ½ years is over after the final select list was published. There is no cause of action for the applicant.

4. So, the point for consideration in this OA is whether the applicant is entitled to get appointment as claimed by her and whether the order passed by the respondents 1 to 3 are arbitrary and illegal.

5. We have anxiously heard the counsel for the applicant and the respondents and perused the various annexures produced in this case. On a perusal of the said pleadings, we find that there is no dispute regarding the calling for application for recruitment of Pre-Primary School Teacher and there is also no dispute regarding qualification prescribed and the qualification of the applicant in this case. According to the applicant, the select list was published in a clandestine manner and it was arbitrary and against all norms. According to the applicant, she could not approach the court in time as her husband suffering from “pleural effusion”, that is swelling in the lungs and he required protracted treatment.

6. On the other hand, the counsel for the respondents argued that the selection process was conducted in a transparent manner and the applicant was called for the certificate verification and thereafter also for the interview conducted in this case. According to them, the applicant did not come up in the rank list and it was because of that she was not able to get an appointment. They have prepared a rank list of 12 candidates and 9 were appointed to the vacancy and 4 were kept in waiting list. Altogether 12 candidates were appointed as Pre-Primary School Teacher by order

dated 18.11.09. There is no arbitrariness or illegality as the selection was conducted in a transparent and legal manner as notified by the respondents. On a perusal of the records and pleadings, it can be seen that eventhough the applicant would allege arbitrariness and illegality in the selection process, she could not produce any iota of evidence to show that the respondents were acting in an illegal manner and having selected the candidates in arbitrary manner or procedural steps were not conducted in a fair manner. According to the respondents, 12 candidates were selected and the applicant herein could not come up in the said list.

7. We have anxiously gone through the annexures produced as A 1 to 13 and the various orders issued by the respondents, appointment of respondents 4 to 14 in this case. We are of the opinion that there is absolutely no material to prove the allegation made by the applicant in this case. We could not find any arbitrariness or illegality in the procedure followed for the recruitment of Pre-Primary School Teacher in this case.

8. As regards the contention of the applicant that she was prevented from coming to the Tribunal for 499 days is not properly explained and she has not succeeded in producing medical certificate for proving inability to approach the Tribunal in time. It is the burden of the applicant to show that she was prevented from approaching the Tribunal in time because of a particular reason. The applicant has failed in this aspect also. So, it is a case which is barred by limitation under Section 21 of the AT Act. In this count also the OA is liable to be dismissed.

9. In the result, we find no merit in the application filed by the applicant and it is also barred by limitation. OA will stand dismissed. MA also stands dismissed. No costs.

(T.Jacob)
Member(A)

(P.Madhavan)
Member(J)

13.06.2019

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