

CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH

Original Application No. 181/00899/2017

Wednesday, this the 26th day of June, 2019

CORAM:

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

Ali Mubarak B.B., S/o. Aboobacker T.P., aged 32,
 Research Scholar, Department of Education,
 Central University of Kerala,
 having present residing at Biyathabiyoda House,
 Agatti Island, Lakshadweep.

..... **Applicant**

(By Advocate : Mr. V. Sajith Kumar)

V e r s u s

1. Union Territory of Lakshadweep,
 represented by its Administrator,
 Lakshadweep Administration,
 Kavaratti Island – 682 555.
2. The Secetary, Department of Education, Lakshadweep
 Administration, Government of India,
 Kavaratti Island – 682 555.
3. Director of Education, Directorate of Education,
 Lakshadweep Administration, Government of India,
 Kavaratti – 682555.
4. Asif Shah Mashhood E.P. Ekkarapalli House,
 Kavaratti – 682555. **Respondents**

[By Advocates : Mr. S. Manu (R1-3) &
Mr. Ziyad Rahman (R4)]

This application having been heard on 17.06.2019 the Tribunal on
 26.06.2019 delivered the following:

O R D E R

Hon'ble Mr. Ashish Kalia, Judicial Member –

The relief claimed by the applicant are as under:

“(i) To quash Annexure A1 to the extent of inclusion of the 4th respondent as the 4th rank holder to the post of Post Graduate Teacher (English).

(ii) To declare that the inclusion of the 4th respondent with a post graduate degree through distance education program conducted by the Annamalai University as the 4th Rank Holder to the post of Post Graduate Teacher (English) is illegal and arbitrary.

(iii) To direct the respondents to consider the superior claim of the applicant over the 4th respondent for the fourth vacancy to the post of Post Graduate Teacher (English) (and to pass appropriate orders appointing the applicant as Post Graduate Teacher (English) with all consequential benefits.

(iv) Grant such other reliefs as maybe prayed for and as the Court may deem fit to grant, and

(v) Grant the cost of this Original Application.”

2. The brief facts of the case are that the applicant is aggrieved by the inclusion of the 4th respondent in the select list to the post of Post Graduate Teacher (English) under respondents Nos. 1-3 overlooking the superior merit of the applicant as well as the ineligibility of the 4th respondent. The respondents invited applications for various poss of Post Graduate Teacher (PGT) vide notification dated 4.7.2016. Four vacancies were offered for the post of PGT (English). The prescribed qualification for the said post was post graduate in English from a recognized university. The applicant submitted his application. The respondents released a checklist showing the educational qualifications of each candidate wherein it was shown that the 4th respondent has obtained only a post graduation through distance education from an unrecognized centre/university. The respondents

conducted the written test and interview. The applicant scored high marks in the concerned subjects in the written test than the 4th respondent. However, the 4th respondent got more marks in General Knowledge and got equated with the applicant in the written test. The respondents were not accepting the post graduate degree certificate acquired through distance mode of education as such certificates acquired through distance mode of education were not in the approved list of courses allotted by the UGC to the concerned universities. Ignoring this, the 4th respondent was included in the select list and applicant was placed as rank No. 1 in the waiting list. The action of the respondents in selecting respondent No. 4 is unjust and is liable to be interfered with by this Tribunal. Aggrieved by this action of respondents the applicant has filed the present OA.

3. Notices were issued to the respondents. Respondents Nos. 1-3 entered appearance through learned advocate Shri S. Manu, who filed a reply statement contending that respondent No. 4 was included in the select list of PGT (English) subject to the condition that he shall produce documentary evidence showing that the qualifications obtained by him were in the approved list of UGC and other authorities concerned. The credentials of the 4th respondent were taken into consideration by the Certificate Verification Committee which prima facie found that the 4th respondent had obtained the post graduate degree in English from Annamalai University through non-formal mode of education and no documents were produced to establish that the said degree is in the approved list of DEC/UGC and that he had appeared the examination within the territorial jurisdiction stipulated

by the UGC. The 4th respondent and other candidates were directed to submit their responses on or before 19.1.2018. Accordingly, the 4th respondent submitted an objection along with all relevant records. This was considered by the Certificate Verification Committee and taking note of the contentions raised by the 4th respondent the Certificate Verification Committee was satisfied with the qualification including the post graduate degree obtained by the 4th respondent. The 4th respondent had produced necessary documents to establish the approval/recognition of the qualifications obtained by him including the post graduate degree from Annamalai university. Therefore, the allegation of the applicant that the inclusion of the 4th respondent in the select list was overlooking his superior merit is absolutely incorrect.

4. The respondents submitted that vide Annexure R1(c) the Ministry of Human Resources Development notified that all degree / diploma / certificates including technical education degree / diploma awarded through open and distance learning mode of education by the Universities established by an Act of the Parliament or State Legislature, Institutions deemed to be universities under Section 3 of the UGC Act, 1956 and Institutions of national importance declared under an Act of Parliament stand automatically recognized for the purpose of employment, posts and services under the Central Government, provided they have been approved by the UGC. As per Annexure R1(c) approval of the Distance Education Council was necessary for the recognition of qualifications acquired through open and distance learning mode of education. The courses

including the one undergone by the 4th respondent was having recognition for a period of five years from the date of issue of the letter dated 15.2.2007. Respondents 1-3 pray for dismissing the OA.

5. Respondent No. 4 entered appearance through Shri Ziyad Rahman who filed a reply statement contending respondent No. 4 has obtained post graduation degree through Distance Education Mode. In Annexure A2 employment notice, it can be seen that nowhere any distinction has been made with respect to the ordinary postgraduate degree and the postgraduate degree obtained through distance education mode. What is contemplated is that the candidate must be a postgraduate with at least 50% marks in the concerned subject as main subject from a recognized University. The applicant having undergone the selection process without raising any challenge against the eligibility of this respondent at any point of time prior to the publication of the select list after getting inferior rank that this respondent in the selection process, cannot be allowed to make any challenge against the inclusion of this respondent at this juncture. The post graduation degree of respondent No. 4 is obtained from Annamalai University which is a recognized University by virtue of Section 22 of the University Grants Commission Act, 1956. Vide Annexure R4(b) the Government of India had decided that all the qualifications awarded through distance education by the Universities established by an Act of Parliament or State Legislature, Institutions deemed to be Universities under Section 3 of the UGC Act, 1956 and Institutions of national importance declared under an Act of Parliament stand automatically recognized for the purpose

of employment to posts and services under the Central Government, provided it has been approved by Distance Education Council, Indira Gandhi National Open University and wherever necessary by All India Council for Technical Education. Thus the 4th respondent having obtained post graduation degree through distance education mode is eligible to be considered for appointment in government service subject to two conditions namely i) it must have been obtained from a University created by statute either Central or State, ii) such University must have been recognized by Distance Education Council. In the present case the postgraduate degree was obtained by the 4th respondent from Annamalai University which is approved by the Distance Education Council vide certificate dated 15.2.2007 [Annexure R4(d)]. Respondent No. 4 pray for dismissing the OA.

6. Heard Shri V. Sajith Kumar, learned counsel appearing for the applicant, Shri S. Manu, learned counsel appearing for respondents 1-3 and Shri Ziyad Rahman, learned counsel appearing for respondent No. 4. Perused the record and appreciated the legal submissions rendered.

7. The question raised in the present OA is whether the degree obtained by respondent No. 4 through distance education programme from Annamalai university is valid for the purpose of Central Government employment or not ?

8. Annexure R1(c) produced by the respondents Nos. 1-3 clearly stipulates that all degree / diploma / certificates including technical

education degree / diploma awarded through open and distance learning mode of education by the Universities established by an Act of the Parliament or State Legislature, Institutions deemed to be universities under Section 3 of the UGC Act, 1956 and Institutions of national importance declared under an Act of Parliament stand automatically recognized for the purpose of employment, posts and services under the Central Government, provided they have been approved by the UGC. As per Annexure R1(c) approval of the Distance Education Council was necessary for the recognition of qualifications acquired through open and distance learning mode of education. Further as per Annexure R1(d) the University Grants Commission had clarified that it is the prerogative of the concerned employer / University / Institution to take a view in respect of qualification acquired through distance education mode. Moreover, the High Court of Madras in Writ Petition No. 30039 of 2012 – *Annamalai University v. Union of India & Ors.* Dated 12.3.2013 held as under:

“17. In the light of the above discussions, I am of the considered view that the petitioner University has made out a case to interfere with the impugned condition and accordingly, the impugned condition viz. B(8) alone in the letter dated 21.3.2012 in F.No. DEC/AMU/TN/Recog/2012/13990-13992 is set aside and consequently, the respondents are restrained from interfering with the right of the petitioner University in conducting various programmes in Graduate, Postgraduate, Diploma, Postgraduate Diploma and Certificate Courses under Distance Education Mode without any territorial limit.”

9. After going through the facts and circumstances of the case, we are of the considered view that the post graduation degree obtained by respondent No. 4 from Annamalai University under distant mode of education is an approved degree which comes under the definition of the degree by the

recognized University as required under the Recruitment Rules. The standard of education as prescribed under the Recruitment Rules have to be followed. Therefore, we are of the view that there is no merit on the side of the applicant. The OA is liable to be dismissed and we order accordingly.

No order as to costs.

**(ASHISH KALIA)
JUDICIAL MEMBER**

**(E.K. BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER**

“SA”

Original Application No. 181/00899/2017

APPLICANT'S ANNEXURES

- Annexure A1** - True copy of the select list issued as per proceedings No. F. No. 18/3/2016-Edn/Estt. dated 27.10.2017 issued by the 3rd respondent.
- Annexure A2** - True copy of the notification No. F. No. 18/3/2016-Edn/Estt(1) dated 4.7.2016 issued by the 3rd respondent.
- Annexure A3** - True copy of the relevant pages of the notice No. F.No. 18/2016-Edn/Estt/701 dated 18.3.2017 issued by the 3rd respondent.
- Annexure A4** - True copy of the notice No. F. No. 18/3/2016-Edn/Estt dated 23.3.2017 issued by the 3rd respondent.
- Annexure A5** - True copy of the notice No. F. No. 18/3/2017-Edn/Estt dated 12.5.2017 issued by the 3rd respondent.
- Annexure A6** - True copy of the notice No. F. No. 18/3/2016-Edn/Estt/753 dated 27.10.2017 issued by the 3rd respondent.
- Annexure A7** - True copy of the proceedings vide Office Memorandum No. F. No. 6/03/2017-Edn/Estt/ (2)/513 dated 30.6.2017 issued by Department of Education.
- Annexure A8** - True copy of the relevant pages of the extraordinary gazette of Tamil Nadu circulated as per GO(MS) No. 170, Higher Education (H1) dated 25.9.2013.
- Annexure A9** - True copy of the letter No. F. No. UGC/DEB/QMC/2013 dated 9.8.2014 issued by the University Grants Commission.
- Annexure A10** - True copy of the notice No. F.27-1/2012 (CPP-II) dated 27.10.2014 issued by the University Grants Commission.

Annexure A11 - True copy of the public notice No. DEB/UGC/Website/2013 dated 30.10.2014 issued by the University Grants Commission.

Annexure A12 - True copy of the student biodata released by the Ernakulam Center, Annamalai University.

Annexure A13 - True copy of the circular No. F.9-8/2008(CPP-I) dated 16.4.2009 issued by the UGC.

Annexure A14 - True copy of the circular No. F.27-1/2012(CPP-II) dated 27.6.2013 issued by the UGC.

Annexure A15 - True copy of the relevant pages of the Circular F. No.12-13/2016 (DEB-III) dated 8.8.2017 issued by the UGC.

Annexure A16 - True copy of the minutes of the verification committee held on 15th, 19th and 20th of December, 2017.

RESPONDENTS' ANNEXURES

Annexure R1(a) - True copy of the OM dated 26.12.2017 along with the minutes of the meeting of the Certificate Verification Committee.

Annexure R1(b) - True copy of the minutes of the meeting of the certificate verification committee which was held in the chamber of Education Officer on 30.1.2018.

Annexure R1(c) - True copy of the gazette notification No. 6-1/2013 dated 10.6.2015 published in Gazette dated 25.7.2015.

Annexure R1(d) - True copy of the letter F. No. 12-4/2016 (DEB-III) dated 27.4.2016 issued by the UGC.

Annexure R1(e) - True copy of the minutes of the meeting of the recruitment committee for the post of post graduate teachers held under the Chairmanship of Secretary (Education) on 27.10.2017 at 10.30 am.

Annexure R4(a) - True copy of the notification bearing F. No. 18/3/2016-Edn/Estt/1194 dated 25.11.2016.

Annexure R4(b) - True copy of the notification dated 1.3.1995 issued by the Ministry of Human resource development.

Annexure R4(c) - True copy of the post graduate degree certificate (MA (English)) issued by the Annamalai University to the 4th respondent, based on the examination held in December, 2010.

Annexure R4(d) - True copy of the certificate dated 15.2.2007 evidencing the postgraduate degree obtained by the 4th respondent from Annamalai University, is approved by the Distance Education Council along with the list of the courses conducted by the Annamalai University which are recognized.

Annexure R4(e) - True copy of the notification bearing F. No. 1-4/2013(CPP-II) dated 17.6.2013.

Annexure R4(f) - True copy of the recognition policy dated 23.2.2010 issued by the distance education council.

Annexure R4(g) - True copy of the covering letter dated 8.11.2017 by which the necessary documents were forwarded to the 3rd respondent.

Annexure R4(h) - True copy of the eligibility certificate dated 15.6.2012 issued by the Central Board of Secondary Education, Delhi.