

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.SURENDRA MOHAN
&
THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

WEDNESDAY, THE 23RD DAY OF DECEMBER 2015/2ND POUSHA, 1937

OP (CAT).No. 210 of 2015 (Z)

AGAINST THE ORDER IN OA 181/00100 of 2015 of CENTRAL ADMINISTRATIVE
TRIBUNAL, ERNAKULAM BENCH DATED 18.12.2015

PETITIONER/APPLICANT IN O.A:

KADEEJABI T.A., AGED 26 YEARS
D/O. T.A.BADARUDEEN, THEK ALIYAMMADA HOUSE
AGATTI ISLAND, LAKSHADWEEP.

BY ADVS.SRI.M.P.KRISHNAN NAIR
SMT.SEEMA KRISHNAN

RESPONDENTS/RESPONDENTS:

1. THE ADMINISTRATOR
UNION TERRITORY OF LAKSHADWEEP, KAVARATTI - 682 055.
2. THE SECRETARY
WOMEN AND CHILD DEVELOPMENT DEPARTMENT OF
WOMEN AND CHILD DEVELOPMENT
ADMINISTRATION OF THE UT OF LAKSHADWEEP
KAVARATTI - 682 555.
3. THE DIRECTOR OF WOMEN AND CHILD DEVELOPMENT
DEPARTMENT OF WOMEN AND CHILD DEVELOPMENT
ADMINISTRATION OF THE UT OF LAKSHADWEEP
KAVARATTI - 682 555.
4. AYISHABEE
LADY VILLAGE EXTENSION OFFICER
DEPARTEMNT OF WOMEN AND CHILD DEVELOPMENT
ADMINISTRATION OF THE UT OF LAKSHADWEEP
KAVARATTI - 682 555.

BY SRI.S.RADHAKRISHNAN,SC,LAKSHADWEEP ADMN

THIS OP (CAT) HAVING COME UP FOR ADMISSION ON 23-12-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP (CAT).No. 210 of 2015 (Z)

APPENDIX

PETITIONER(S)' EXHIBITS

P1 - TRUE COPY OF THE OA.

P2 - TRUE COPY OF THE ORDER DT. 18.12.2015 IN OA NO. 181/00100/2015.

RESPONDENTS' EXHIBITS: NIL

//TRUE COPY//

P.A. TO JUDGE

smv

**K. SURENDRA MOHAN
&
SHAJI P. CHALY, JJ.**

O.P.(CAT) No.210 of 2015

Dated this the 23rd day of December, 2015

JUDGMENT

Surendra Mohan,J.

The petitioner has filed this Original Petition seeking the following reliefs:

i) To call for the entire of the petitioner's case and all action taken by the respondents on the basis of the Annexures A-5, A-6, A-7 and A-8 and also the entire records relating to file No.28/1/2011-WCD (part);

(ii) To direct the respondents to issue notification for selection and appointment of the Lady Village Extension Officer in the existing and ensuing vacancies and other similar posts in the Department of Women and Child development on the basis of the present Recruitment Rules;

(iii) To direct the respondents not to take any steps to amend and alter or change the existing Recruitment Rules Annexures A-3 and A-4 in order to absorb/merger of the Border Area Project Staff to the Women and Child Development Department;

(iv) To pass any other order or orders which are deemed fit and proper in the facts and circumstances of the case;"

2. According to the petitioner, she is a person who is qualified to be appointed as a Lady Village Extension Officer in the Union Territory of Lakshadweep. The first respondent has issued Recruitment Rules for the selection and appointment of Village Extension Officer (Lady), called the Lakshadweep Administration Village Extension Officer (Lady) (Group C) Recruitment Rules, 1981, which is Annexure A2. The rules have been amended by Annexure A3 and later on by Annexure A4. As per the amendment in Annexure A4, according to the petitioner, 25% of the vacancies have been reserved for Anganwadi workers, who possess only a qualification of matriculation provided they have 10 years experience as Anganwadi workers. The remaining 75% of the posts are to be filled up by qualified persons selected through direct recruitment. According to the petitioner, there are a number of vacancies in existence. Though she has submitted various representations seeking the issue of a notification for selection to the vacant posts, no action has allegedly been taken. Annexures A5 to A8 are the representations submitted by the petitioner. Without passing any orders on her representations, according to the petitioner, the respondents are taking hasty steps to somehow or other induct

Grama Sevikas, who are not Government employees, but working under some other departments. They are not entitled to be so appointed as Lady Village Extension Officers, for the reason that, they are not qualified.

3. In view of the above, the petitioner seeks the issue of appropriate directions compelling the respondent to issue a notification for the selection and appointment of Lady Village Extension Officers in the existing and ensuing vacancies and other similar posts. A further direction not to take any steps to amend or alter or change the existing Recruitment Rules is also sought.

4. In the absence of any response to the representations submitted by the petitioner, she had approached the Central Administrative Tribunal ('CAT' for short) by filing O.A No.181/00100/2015. After considering the contentions of the petitioner, the Tribunal has dismissed the Original Application by Ext.P2 order. The petitioner has filed this Original Petition aggrieved by Ext.P2.

5. According to Adv. M.P. Krishnan Nair who appears for the petitioner, this is a case in which the petitioner is fully qualified and entitled to be considered for appointment to the

post. However, in spite of the existence of a number of vacancies, no action has been taken. There is also no response to the representations submitted by the petitioner, but at the same time, attempts are being made to fill up the posts with unqualified persons who are working in other departments. According to the learned counsel, the impugned action of the respondents is liable to be restrained by this Court. According to the counsel, the petitioner is not insisting that she should be selected or appointed to the vacancies. Her only case is that, the vacancies should be notified and she should be given a chance to compete in the process of selection.

6. Advocate Sri. S. Radhakrishnan, who appears for the respondents submits on the other hand that, the reliefs sought for by the petitioner are not justiciable. It is for the respondents to decide whether any vacancies available in the posts should be filled up or not. The petitioner is only an aspirant for selection to the post. Therefore, she does not have any right to insist that the post should be notified or that the Recruitment Rules should not be amended. It is pointed out that, the CAT has considered the issue in the proper perspective and that there are no grounds for interference therewith, made out by the petitioner.

7. Heard. As rightly pointed out by the counsel for the respondents, the petitioner is only an aspirant for the post of Lady Village Extension Officer. She could have any claim for being selected or considered for selection only upon the issue of a notification inviting applications for such selection. The power to decide whether to fill up a vacant post or not is vested in the Government. Though the petitioner alleges that efforts are afoot to appoint unqualified persons to the vacant posts, no specific instance has been pointed out. Absolutely no materials have been placed before us to warrant a conclusion that any unqualified person has been appointed or is about to be appointed to one of the vacant posts. Therefore, there is no justification for the apprehension expressed by the petitioner. The CAT has considered the issue in the proper perspective. We do not find any infirmity in the order justifying an interference therewith on the above count.

8. The other reliefs sought for by the petitioner are for a direction that the Recruitment Rules should not be amended. It is upto the Rule Making Authority to decide whether the Rules should be amended or not. It is not for this Court or the CAT to direct the authorities either to amend or not to amend the

Recruitment Rules. The petitioner also does not have any right to insist that an amendment should not be effected. For the above reasons, the said prayer has also been rightly rejected by the Central Administrative Tribunal.

In view of the above, we do not find any grounds to admit this Original Petition or to grant any of the reliefs sought for. The same is accordingly dismissed.

Sd/-

**K. SURENDRA MOHAN
JUDGE**

Sd/-

**SHAJI P. CHALY
JUDGE**

//true copy//

P.A. To Judge

smv
31.12.2015