

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

PETITION FOR SPECIAL LEAVE TO APPEAL (CIVIL) NO. 33281 OF 2016

Thahira. P

.....Petitioner

Vs.

The Administrator,
UT of Lakshadweep & Ors.

....Respondents

JUDGMENT

Madan B. Lokur, J.

1. The grievance of the petitioner is directed against the judgment and order dated 9th September, 2016 passed by a Division Bench of the Kerala High Court in O.P. (CAT) No. 126 of 2016.

2. The Administration of the Union Territory of Lakshadweep (Directorate of Education) issued an advertisement inviting applications from local candidates between 18-25 years having a bachelor's degree in Sociology from a recognised University for appointment to the post of Social Education Organizer.

3. The petitioner Thahira applied for the post. She had obtained a B.A. Degree in Malayalam and Sociology (Double Main) from the University of Calicut in Kerala. Similarly, respondent No. 4 Kadeeja also applied for the post. She had a B.A. Degree in Sociology (Single Main) from the same University that is the University of Calicut.

4. The Administration considered all the applications and on 24th May, 2011 published a check list of candidates who had applied for the post of Social Education Organiser. The check-list mentioned the desirable qualification was BSW/MSW from a recognised University and as regards the degree of Bachelor in Sociology it was mentioned that Sociology would be given 85% weightage, BSW 5% weightage and MSW 10% weightage.

5. Based on the above, the check-list showed that Thahira was Rank No.1 having obtained 48.03% marks while Kadeeja was Rank No.2 having obtained 46.43% marks.

6. The check-list was accompanied by a notice of the same date published for the information of all the applicants. It was mentioned in the notice that in case of any mistake in the personal data or in the marks entered in the check-list, the same may be brought before the department till 1 p.m. on 26th May, 2011. It was also stated in the notice that no complaint would be entertained after the stipulated time and date.

7. On 27th May, 2011 that is after the cut-off date, Kadeeja is said to have filed an objection to the check-list. The objection was limited to the allegation that Thahira did not have the required qualification for the post of Social Education Organiser since she had a degree in Malayalam and Sociology (Double Main). No objection was raised to the weightage given to the qualifications.

8. It appears that the objection raised by Kadeeja was not accepted or not considered by the Administration being beyond time. Be that as it may, a rank list was then published on 4th June, 2011 for the post of Social Education Organiser in which Thahira was placed at Rank No. 1 and Kadeeja was placed at Rank No.2.

9. On 7th June, 2011 Thahira was appointed to the post of Social Education Organiser on a temporary basis.

10. Feeling aggrieved, Kadeeja preferred an application before the Central Administrative Tribunal being O.A. No. 666 of 2013 dated 18th July, 2013 challenging the appointment of Thahira. The Administration filed a reply to the application to the effect that since no objection had been received to the check-list, within the prescribed time, the list was finalised and the rank list published.

11. One of the issues adverted to before the Tribunal was whether the

degree obtained by Thahira in Malayalam and Sociology (Double Main) was equivalent to a degree in Sociology (Single Main). The University of Calicut filed an affidavit on 4th September, 2013 to the effect that the question of equivalence had not been considered by the Academic Board of the University.

12. By an order dated 15th March, 2016 the Tribunal allowed the application filed by Kadeeja and it was held that the composite marks obtained by the candidates should be taken into consideration for making the selection. Consequently, the marks obtained by Kadeeja in her subsidiary subjects were also taken into consideration and on that basis it was held that the appointment of Thahira was not justified.

13. Feeling aggrieved by the decision of the Tribunal, a writ petition being O.P. (CAT) No. 126 of 2016 was preferred by Thahira before the High Court of Kerala. The High Court upheld the order passed by the Tribunal. In other words, the appointment of Thahira was struck down.

14. At this stage, it may be mentioned that in the meanwhile the University of Calicut looked into the equivalence issue and concluded on or about 9th May, 2016 that the degree in Malayalam and Sociology (Double Main) was equivalent to a degree in Sociology (Single Main) awarded by the University. That being the position, there cannot be any doubt that Thahira was entitled to be considered for appointment to the

post of Social Education Organiser.

15. The High Court took into consideration the method of calculation of marks for deciding who should Rank No. 1 and who should Rank No.2 and found fault with it. We are afraid the High Court ought not to have travelled this path since this was not an issue raised by Kadeeja in her representation to the Administration. Her only grievance was with regard to the eligibility of Thahira who had a degree in Malayalam and Sociology (Double Main) which, according to her, made Thahira ineligible since she did not have a degree in Sociology (Single Main).

16. That apart, the check-list published on 24th May, 2011 gave the weightage of marks to be awarded. It would have been more appropriate for the High Court to permit the Directorate of Education to proceed on the announced basis rather than to open the issue of award of marks which, in any case, was not the grievance made by Kadeeja. In matters such as the present, it is advisable to leave the award of marks, weightage to be given etc. to the authorities who are dealing with the issue. Otherwise, any interference by the Court would amount to trenching on the wisdom and expertise of the selecting authority leading to avoidable litigation and uncertainty of employment as far as the candidates are concerned. It is another matter if there is some *ex facie* perversity or

illegality in the process, but that is not so insofar as the present case is concerned.

17. There also must be some adherence to the timelines held out to all candidates. In the present case, all the candidates were informed that if they had any objection to the check-list, they should file an objection before 1 p.m. on 26th May, 2011. Kadeeja did not file her objection within the prescribed time. As such, the Administration was fully justified in not considering her objection or rejecting it as being beyond the prescribed time. Adherence to such time limits, if not strictly followed, can again lead to uncertainties particularly if other candidates also start raising objections after the cut off date and providing some justification for the delay. In such circumstances, the process of selection would get bogged down and unduly prolonged which would neither serve the interest of the concerned institution nor the management of affairs of the institution.

18. Consequently, we are of opinion that the Tribunal and the High Court needlessly opened up a new avenue for challenging the appointment of Thahira as Social Education Organiser. Both the Tribunal and the High Court ought to have exercised due restraint given the time limit for raising an objection by the Administration and the actual

objection raised by Kadeeja.

19. Accordingly, the order dated 15th March, 2016 passed by the Tribunal as well as the impugned judgment and order dated 9th September, 2016 passed by the High Court are set aside.

20. The petition is allowed. No costs.

.....J
(Madan B. Lokur)

New Delhi;
April 17, 2018

.....J
(Deepak Gupta)