



2024:KER:14400

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

&

THE HONOURABLE MRS. JUSTICE SHOBA ANNAMMA EAPEN

WEDNESDAY, THE 21ST DAY OF FEBRUARY 2024 / 2ND PHALGUNA, 1945

OP (CAT) NO. 83 OF 2016

AGAINST THE ORDER OA 737/2010 OF CENTRAL ADMINISTRATIVE
TRIBUNAL, ERNAKULAM BENCH

PETITIONER/S:

- 1 FAYAZKHAN H.K.,
 AGED 29 YEARS
 S/O.HASSAINAR, AFSANATH HOUSE, AMINI ISLAND, UNION
 TERRITORY OF LAKSHADWEEP
- 2 NOORJAHAN B.H,
 W/O.SALIH, BAYTHULLHUDA HOUSE, AMINI ISLAND, UNION
 TERRITORY OF LAKSHADWEEP.
 BY ADVS.
 M.P.KRISHNAN NAIR
 R.SUDHIR
 MATHAI M PAIKADAY (SR.)
 RAJESWARI KRISHNAN
 SEEMA KRISHNAN
 M.J.WILFRED DAS



-:2:-

RESPONDENT/S:

- 1 THE DIRECTOR OF MEDICAL & HEALTH SERVICES, KAVARATTI UNION TERRITORY OF LAKSHADWEEP, KAVARATTI 682555.
- 2 THE ADMINISTRATOR, UNION TERRITORY OF LAKSHADWEEP, KAVARATTI - 682555.
- 3 NASEER.L,
S/O.ABDUL RAHUMAN KOYA, STAFF NURSE, COMMUNITY HEALTH CENTRE, AGATTI ISLAND, UNION TERRITORY OF LAKSHADWEEP 682553.
- 4 C.P.MUHAMMED AZHRUDHEEN,
STAFF NURSE, INDIRA GANDHI HOSPITAL, KAVARATTI ISLAND, UNION TERRITORY OF LAKSHADWEEP - 682555.
- 5 KERALA NURSES MIDWIVES COUNCIL,
RED CROSS ROAD, THIRUVANANTHAPURAM - 695035.REP. BY ITS REGISTRAR.
- 6 THE TAMILNADU NURSES AND MIDWIVES COUNCIL,
NO.140, SANTHOME HIGH ROAD, CHENNAI - 600004.REP. BY ITS REGISTRAR.
BY ADVS.
SHRI.MANU.S, DSGI, SCGC, ADMINISTRATION OF THE UNION TERRITORY OF LAKSHADWEEP
SRI.SREELAL N.WARRIER
SMT.K.P.AMBIKA
N.RAGHURAJ
SMT.R.JAGADA BAI
SRI.MANU.S, CGC, ADMINISTRATION OF THE UNION TERRITORY OF LA
R.JAGADA BAI
SHRI.SAJITH KUMAR V., SC, LAKSHADWEEP ADMINISTRATION
P.K.IBRAHIM
A.L.NAVANEETH KRISHNAN
A.A.SHIBI
MARTIN G.THOTTAN

THIS OP (CAT) HAVING BEEN FINALLY HEARD ON 06.02.2024,
THE COURT ON 21.02.2024 DELIVERED THE FOLLOWING:



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A.MUHAMED MUSTAQUE & SHOBA ANNAMMA EAPEN, JJ.

O.P.(CAT).No.83/2016

“C.R.”

Dated this the 21st day of February, 2024

J U D G M E N T

A.Muhamed Mustaque, J.

This original petition raises a question as to the scope of adjudication by the Central Administrative Tribunal (CAT) concerning the genuineness of the certificates produced by the candidates for the purpose of selection to the post of Staff Nurse in the service covered under the Administrative Tribunals Act.

2. The original application was filed by the petitioners herein challenging selection of respondents 3 and 4 to the post of staff nurse under the Lakshadweep Administration, alleging that the appointments were irregular and illegal. Respondent



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No.3 was selected to the post of staff nurse. He possessed a Diploma in General Nursing and Midwifery and was registered under Kerala Nurses and Midwives Council, a statutory body. Respondent No.4 had obtained a similar diploma and was registered with the Tamil Nadu Nurses and Midwives Council. Now, the dispute is centered around the genuineness of the certificates issued by the statutory authorities. The employment notice issued stipulates that the candidates must have registration with the Nursing Council.

3. The notification was issued on 12/2/2007. The challenge was raised before the Tribunal in the year 2010. The Tribunal refused to interfere with the matter noting delay. The review application was also dismissed. There upon, a challenge was made before this Court in O.P.(KAT).No.1490/2012. This Court set aside the orders of the Tribunal and directed the Tribunal to dispose of the main matter on merits, treating the delay as condoned. The Kerala Nurses and Midwives Council was also suo motu impleaded by this Court in O.P.(KAT).No.1490/2012. The matter was reheard by the Tribunal after impleading Tamil Nadu Nursing Midwives Council as well. The Kerala Nursing and Midwives Council affirmed the



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issuance of registration. The Tamil Nadu Nursing and Midwives Council also affirmed the registration. Noting the above, the Tribunal repelled the challenge. The Tribunal particularly noted that it has no jurisdiction to enquire into any allegation of violation of rules in issuing certificates by the Council.

4. When a statutory Council accords registration, it has to be presumed that all acts have been done in compliance with the Rules. As rightly noted by the Tribunal, it cannot entertain a direct challenge as against the validity of the certificate; such a dispute will not fall within the jurisdiction, powers and authority of the Central Administrative Tribunal under Section 14 of the Administrative Tribunal Act, 1985. In a matter like this, a distinction has to be drawn between a direct challenge and collateral challenge regarding the validity of qualifications. A direct challenge must be relatable to service matters, including matters concerning recruitment. In that process, the Tribunal has power to collaterally consider challenges to the qualification. However, the Tribunal has no jurisdiction to entertain a direct challenge regarding genuinity of a qualification, as it has nothing to do with recruitment or service of such candidates. The challenge in those circumstances



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is in regard to the validity of the qualification and it has nothing to do with the matters competent to be adjudicated by the Tribunal. The substantial issue in this matter is between the registration granted by the statutory authority and a complaint against such registration by a third party. Therefore, this is not a matter raising a collateral challenge but a direct challenge contending that registration was granted in violation of the rules.

5. The petitioner in yet another challenge contended on the ground that selected candidates produced originals of their credentials after the cut-off date, and therefore, any proof of educational qualifications produced after 12/3/2007, the cut off date fixed in the notification, was inadmissible. We perused the notification. It only states about producing and attaching copy of certificates and marklist etc. There was no requirement of producing originals along with application. The petitioner has no case that the selected candidates will have to produce the originals before the cut-off date.



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In the above circumstances, we affirm the order of the Tribunal. The original petition fails, and it is accordingly, dismissed.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

Sd/-

SHOBA ANNAMMA EAPEN, JUDGE

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APPENDIX OF OP (CAT) 83/2016

PETITIONER EXHIBITS

Exhibit P3 EXT.P-3: TRUE COPY OF THE REPLY STATEMENT DT.26.2.2011 FILED BY RESPONDENT NOS.1 AND 2 WITH ANNEXURES

ANNEXURE R1 (d) TRUE COPIES OF THE DOCUMENTS PRODUCED BY THE 4TH RESPONDENT ALONG WITH ANNEXURE R-1 (C) .

ANNEXURE R1 (c) TRUE COPY OF THE APPLICATION SUBMITTED BY THE 4TH RESPONDENT.

ANNEXURE R1 (b) TRUE COPY OF THE LETTER SUBMITTED BY THE 3RD RESPONDENT.

ANNEXURE R1 (a) TRUE COPY OF THE APPLICATION AND CERTIFICATES OF TECHNICAL QUALIFICATIONS OF 3RD RESPONDENT.

EXHIBIT P1 EXT.P-1: TRUE COPY OF THE ORDER DATED 26.6.2015 IN OA 737/2010 OF THE CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH.

EXHIBIT P2 EXT.P-2: TRUE COPY OF THE OA NO.737/2010 FILED BEFORE THE C.A.T. ERNAKULAM.

ANNEXURE A-23 TRUE COPY OF THE REPRESENTATION D T.26.2.2010 SUBMITTED BY THE APPLICANT.

ANNEXURE A-22 TRUE COPY OF THE REPRESENTATION DATED 26-2-2010.

ANNEXURE A-21 TRUE COPY OF THE REPRESENTATION DATED 9-2-2010.

ANNEXURE A-20 TRUE COPY OF THE REPRESENTATION DATED 1-3-2008.

ANNEXURE A-19 TRUE COPY OF THE ORDER F.NO.5/2/2007-DMHS (1) DT.13-6- 2007.

ANNEXURE A-18 TRUE COPY OF THE ORDER F.NO.5/2/2007-DMHS DT.7-6-2007.

ANNEXURE A-17 TRUE COPY OF THE ORDER F.NO.5/2/2007-DMHS DT.22.9.2007.

ANNEXURE A-16 TRUE COPY OF THE ORDER F.NO.5/2/2007-DMHS (2) 2718 DT.22.9.2007.

ANNEXURE A-15 TRUE COPY OF THE ORDER F.NO.5/2/2007-DMHS (2) 2717 DT.22.9.2007.

ANNEXURE A-14 TRUE COPY OF OFFICE ORDER F.NO.5/2/2007 DMHS DATED 4-6-2007 ISSUED BY THE 1ST RESPONDENT.

ANNEXURE A-13 TRUE COPY OF THE PROVISIONAL REGISTRATION CERTIFICATE DT.31-1-2007 VALID UPTO 30-1-2008 IN RESPECT OF THE 4TH RESPONDENT.



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ANNEXURE A-12 TRUE COPY OF THE MARK LIST DT.23-3-07 GURU RAGHAVENDHRA PARA MEDICAL INSTITUTION, GURU RAGHAVENDRA HOSPITAL.

ANNEXURE A-11 TRUE COPY OF THE COURSE CERTIFICATE IN RESPECT OF THE 3RD RESPONDENT DATED 21-3-2007.

ANNEXURE A-10 TRUE COPY OF THE CERTIFICATE OF REGISTRATION IN RESPECT OF 3RD RESPONDENT DT.23-3-2007.

ANNEXURE A-9 TRUE COPY OF THE DETAILS OF THE CANDIDATES FOR SELECTION HELD ON 29-5-2007.

ANNEXURE A-8 TRUE COPY OF THE LETTER NO.16/1/2007-DMHS DT.6-7-2010.

ANNEXURE A-7 TRUE COPY OF THE PROCEEDINGS OF SELECTION BOARD DT.29-5-2007.

ANNEXURE A-6 TRUE COPY OF THE F.NO.5/2/2007-DMHS (2) DATED 12-2-2007.

ANNEXURE A-5 TRUE COPY OF THE CERTIFICATE OF REGISTRATION OF THE 2ND APPLICANT.

ANNEXURE A-4 TRUE COPY OF THE DIPLOMA CERTIFICATE DT.3-4-2007 IN RESPECT OF THE 2ND APPLICANT.

ANNEXURE A-3 TRUE COPY OF THE CERTIFICATE OF REGISTRATION DT.15-2-2007 OF THE 1ST APPLICANT.

ANNEXURE A-2 TRUE COPY OF THE DIPLOMA CERTIFICATE IN GENERAL NURSING AND MIDWIFERY OF THE 1ST APPLICANT.

ANNEXURE A-1 TRUE COPY OF THE NOTIFICATION F.NO.5/15 2011-DMHS/2697 DT.6-6-2002.

EXHIBIT P4 EXT.P-4: TRUE COPY OF THE REJOINDER DT.25TH OCTOBER, 2011 SUBMITTED BY THE PETITIONERS

EXHIBIT P5 EXT.P-5: TRUE COPY OF THE ADDL.REPLY STATEMENT, DATED 25.10.2011 FILED BY THE RESPONDENT NOS.1 AND 2

EXHIBIT P6 EXT.P-6: TRUE COPY OF THE JUDGEMENT DATED 26.6.2013 IN OP(CAT) NO.1490/2012 OF THIS HON'BLE COURT.

EXHIBIT P7 EXT.P-7: TRUE COPY OF THE MA NO.835/2013 SUBMITTED BY THE PETITIONERS BEFORE CAT.

ANNEXURE A-29 TRUE COPY OF THE BRIEF SYNOPSIS AND LIST OF DATES SUBMITTED BEFORE THE HON'BLE HIGH COURT IN OP (CAT) NO.1490/2012.

ANNEXURE A-28 TRUE COPY OF THE REPLY AFFIDAVIT FILED BY THE APPLICANTS TO THE AFFIDAVIT FILED BY THE ADDITIONAL 5TH RESPONDENT IN OP (CAT) NO.1490/2012.



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ANNEXURE A-27 TRUE COPY OF THE AFFIDAVIT FILED BY THE
ADDITIONAL 5TH RESPONDENT IN THE OP (CAT)
NO.1490/2012.

ANNEXURE A-26 TRUE COPY OF THE ORDER DT.5-11-09 IN OA
NO.152/2008.

ANNEXURE A-25 TRUE COPY OF THE OA NO.152/2008 FILED BY
P.K.ASHRAF BEFORE THE HON'BLE TRIBUNAL.

ANNEXURE A-24 TRUE COPY OF THE EXTRACT OF THE OFFICE
NOTES/SELECTION PROCEDURE ADOPTED BY THE
LAKSHADWEEP ADMINISTRATION.

EXHIBIT P8 EXT.P-8: TRUE COPY OF THE REPLY STATEMENT
FILED BY THE 4TH RESPONDENT ON 14.10.2013
IN OA 737/10

ANNEXURE R4 (b) TRUE COPY OF THE COURSE COMPLETION
CERTIFICATE OF DIPLOMA IN GENERAL NURSING
& MIDWIFERY/

ANNEXURE R4 (a) TRUE EXTRACT OF THE REGISTER MAINTAINED BY
SREE GURU RAGHAVENDRA MEMORIAL INSTITUTION
RECORDING THE MARKS.

EXHIBIT P9 EXT.P-9: TRUE COPY OF THE REJOINDER FILED
BY THE PETITIONERS TO THE REPLY STATEMENT
OF 4TH RESPONDENT

ANNEXURE A-30 TRUE COPY OF THE LETTER ISSUED BY THE
TAMIL NADU NURSES & MIDWIVES COUNCIL.

EXHIBIT P10 EXT.P-10: TRUE COPY OF THE REJOINDER FILED
BY THE PETITIONERS TO THE ADDITIONAL REPLY
STATEMENT FILED BY THE RESPONDENTS 1 AND
2.

ANNEXURE A-31 TRUE COPY OF THE LETTER DT.17.09.10 ISSUED
BY THE ADMINISTRATION UNDER RTI ACT.

EXHIBIT P11 EXT.P-11: TRUE COPY OF THE MISCELLANEOUS
APPLN.FILED BY THE 4TH RESPONDENT IN OA
NO.737/10

ANNEXURE R4 (d) TRUE COPY OF THE CERTIFICATE OF
REGISTRATION ISSUED BY TAMIL NADU NURSES &
MIDWIFES COUNCIL DATED 19-12-2007.

ANNEXURE R4 (c) TRUE COPY OF THE CERTIFICATE DATED 29-09-
2007 ISSUED BY SREE GURU RAGHAVENDRA
MEMORIAL INSTITUTION.

EXHIBIT P12 EXT.P-12: TRUE COPY OF THE REPLY STATEMENT
FILED BY THE PETITIONERS TO THE MISC.
APPLICATION FILED BY THE 4TH RESPONDENT

EXHIBIT P13 EXT.P-13: TRUE COPY OF THE REPLY STATEMENT
FILED BY THE 3RD RESPONDENT ON 26.10.2013
IN OA 737/10



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EXHIBIT P14 EXT.P-14: TRUE COPY OF THE REJOINDER FILED BY THE PETITIONERS TO THE REPLY STATEMENT FILED BY THE 3RD RESPONDENT

EXHIBIT P15 EXT.P-15: TRUE COPY OF THE ADDITIONAL AFFIDAVIT FILED BY THE 5TH RESPONDENT ON 13.10.2014

EXHIBIT P16 EXT.P-16: TRUE COPY OF THE REJOINDER FILED BY THE PETITIONERS TO THE ADDITIONAL AFFIDAVIT FILED BY THE 5TH RESPONDENT

EXHIBIT P17 EXT.P-17: TRUE COPY OF THE COUNTER AFFIDAVIT FILED BY THE 6TH RESPONDENT IN OA NO.737/10

EXHIBIT P18 EXT.P-18: TRUE COPY OF THE REJOINDER FILED BY THE PETITIONERS TO THE COUNTER AFFIDAVIT FILED BY THE 6TH RESPONDENT

EXHIBIT P19 EXT.P-19: TRUE COPY OF THE SYNOPSIS AND ARGUMENT NOTE SUBMITTED BY THE PETITIONERS ON 4.3.2014 IN OA NO.737/2010