

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.356/2002

New Delhi, this the 7th day of November, 2002

Hon'ble Shri M.P. Singh, Member(A)
Hon'ble Shri Shanker Raju, Member(J)

1. S.K. Panigrahi
Jr. Economic Investigator
2. M.K. Kaushal
Sr. Investigator
Both working in the office of DGFT,
Udyog Bhavan, New Delhi .. Applicants
(Shri V.K. Rao, Advocate)

versus

Union of India, through

1. Secretary
Ministry of Commerce, New Delhi
2. Director General of Foreign Trade
Udyog Bhavan, New Delhi
3. Jai Kishan, Jr. Economic Investigator
DGFT, New Delhi
4. Rajbir Sharma
Jr. Economic Investigator
DGFT, New Delhi .. Respondents

(Shri R.N. Singh, Advocate)

ORDER

Shri M.P. Singh, Member(A)

Briefly stated, it is the case of applicants that in response to a vacancy circular dated 30.4.2001 issued by Respondent No.2 for filling up the post of Research Officers, they applied for the said post. According to them, the selection Committee in its meeting held on 9.10.2001 recommended the applicants for appointment to the said post on deputation basis. However, it transpired that respondents had constituted a fresh selection committee which met on 4.2.2002 for selecting fresh candidates for the said post. Aggrieved by this, they have filed the present OA seeking a direction to the respondents to appoint them on deputation basis to the post of Research Officers. Applicants claim they have *that*

all requisite experience in terms of the eligibility as they have experience in compilation and analysis of data relating to import and export.

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2. Respondents in their reply have admitted the fact that the selection committee in its meeting held on 9.10.2001 recommended the names of applicants for the post of Research Officer on deputation basis but the recommendations of the selection committee are not binding on the appointing authority, who is required to look into the matter and take a decision after careful consideration. Director General Foreign Trade (DGFT), who is the appointing authority in this case, was not satisfied with the weightage given by the Selection Committee to the relevant experience of the candidates i.e. length of service in the feeder grade in which such experience was obtainable, had rejected the recommendations of the first selection committee. It is further stated by them that applicants have no vested right to be appointed except to be considered for the post in accordance with relevant rules and instructions and they have been considered as such but have not been recommended by the Committee constituted afresh by the competent authority after not being satisfied with the recommendations of the first selection committee. As regards applicants' contention that they possess the requisite experience in terms of the eligibility as they have experience in compilation and analysis of data relating to import and export, respondents have submitted that mere eligibility cannot guarantee selection, which has to be made on the basis of evaluation of comparative merit of all the candidates in the zone of consideration. Also there is no provision in the Recruitment Rules for

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considering candidates in higher scale first, and then considering the others, i.e. there is no priority consideration of any class of candidates vis-a-vis others.

3. We have heard the learned counsel for the parties and perused the records. We have also carefully gone through the file of selection process for the post in question. The appointing authority has given proper reasons for not agreeing with the recommendations of the selection committee on 9.10.2001 and has ordered for a fresh selection committee meeting keeping in view the relevant factors. It is a settled legal position that the Tribunal cannot substitute itself in place of the selection committee and exercise the power of selection committee. It is also a settled legal position that whether a candidate fulfils the requisite qualifications or not is a matter that should be entirely left to be decided by the academic bodies and the concerned selection committee, which invariably consists of experts on the subjects relevant to the selection. (see The Chancellor & Anr. v. Dr. Bijayananda Kar & Ors. 1994(1) SLR 17(SC). The reliance placed by applicants' counsel in the case of Bhagirathdan Vs. State of Rajasthan AIR 1992 SCC 1949 would render no help to the applicants as the facts of that case are distinguishable. The other contention of the learned counsel for the applicant that the applicants have much more experience in the relevant field cannot be accepted as there are other factors like weightage of Annual Confidential Report which are to be taken into account by the

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selection committee while making selection of the candidates. We find from the selection proceedings that Respondent Nos. 3 and 4 selected by the Second Selection Committee have better Confidential Reports than that of applicants. We are satisfied that the selection of the Respondent Nos. 3 & 4 has been made on merit as they are found the most suitable persons for the post. We do not find any ground to interfere with the selection of Respondent Nos. 3 and 4 made by the Selection Committee for the appointment as Research Officer.

4. Therefore, for the reasons recorded above, we find no merit in the present OA and the same is accordingly dismissed. No costs.

S. Raju
(Shanker Raju)
Member (J)

M.P. Singh
(M.P. Singh)
Member (A)

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