

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No. 316/2020

New Delhi, this the 03rd day of February, 2020



Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)

Amit Bhardwaj, Age: approx 38 years
S/o S.P. Sharma, Senior Research Officer
NITI Aayog, Group A Officer
Residence: 95, Near Kanishka Tower
Sector-34, Ashoka Enclave, Part-1
Amarnagar, Faridabad, Haryana-1210003. ... Applicant

(through Sh. P.K. Sinha with Sh. Sushil Kumar)

Versus

1. The Secretary
Union Public Service Commission
Dholpur House, Shahjahan Road
New Delhi-110001.
2. Union of India
Through Chief Executive Officer
NITI Aayog, Parliament Street
New Delhi-110001.
3. Shri Biswanath Bishoi
Deputy Adviser, NITI Aayog
Parliament Street, New Delhi-110001.
4. Shri A. Mulralidharan
Deputy Adviser, NITI Aayog
Parliament Street, New Delhi-110001.
5. Dr. Thyagaraju B.M.,
Deputy Adviser, NITI Aayog
Parliament Street, New Delhi-110001.

6. Dr. Muniraju S.B.,
Deputy Adviser, NITI Aayog
Parliament Street, New Delhi-110001. ... Respondents

(through Sh. Dilbag Singh for R. Nos. 2 to 6)

ORDER(ORAL)

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman



Niti Aayog – the second respondent herein, intended to fill the posts of Joint Adviser and Deputy Adviser. The selection process was entrusted to the Union Public Service Commission (UPSC) and a notification was issued in this behalf. Not only the departmental candidates, who fulfilled the qualifications stipulated under the relevant recruitment rules, but also those from outside the department, were made eligible to apply. The difference was that, in case, the departmental candidate is selected, his appointment shall be by way of promotion and, if an outsider is selected, his appointment shall be on deputation basis.

2. The applicant responded to the notification, for the post of Deputy Adviser. Though his name was forwarded by the Niti Aayog in the list of eligible candidates, the UPSC did not treat him as qualified, and, they did not invite him for interview. At that stage, the applicant filed OA No. 3133/2019 before this Tribunal. By the time, the OA was

taken up, the selections were completed. Therefore, the applicant withdrew the OA on 06.12.2019 with liberty to file a fresh OA.



3. In this OA, the applicant has challenged the promotion of respondent nos. 3 to 6. He contends that the respondent nos. 3 to 6 did not fulfil the conditions stipulated for the selection, particularly, the one relating to the undergoing of two weeks training, as mentioned in the advertisement. He contends that though, it was essential that the training must have been undergone by the candidates by 08.01.2019, the last date for submission of applications; training for first batch itself was conducted from 28.01.2019-08.02.2019 and that, it cannot be said that the respondent nos. 3 to 6 have fulfilled the qualifications.

4. In reply to an application filed in this behalf, the respondents informed the applicant that his candidature was not considered since he did not fulfil the essential qualifications. He made a prayer to quash and set aside the selection of respondent nos. 3 to 6 through order dated 22.10.2019 and to direct the Niti Aayog and UPSC to conduct a training and then interview the applicant for promotion by selection to the post of Deputy Adviser and to preserve his seniority.

5. We heard Sh. P.K. Sinha, learned counsel for the applicant and Sh. Dilbag Singh, learned counsel for respondent nos. 2 to 6, at length, at the stage of admission.

6. The issue is about selection and appointment to the post of Deputy Adviser. As observed earlier, there is a process in which the departmental candidates and those from other departments are treated at par, for the selection. In case, a departmental candidate is selected, his appointment shall be treated as on promotion and, if a candidate is from other department, it shall be treated as on deputation. The qualifications are mentioned not only in the recruitment rules, but also in the notification issued in this behalf. The applicant has laid stress upon the condition pertaining to the completion of training in the relevant fields before the expiry of last date for submission of applications. The relevant condition reads as under:



“FOR PROMOTION to the posts of Joint Adviser and Deputy Adviser

Joint Adviser

The Departmental Deputy Adviser of the NITI Aayog in level-12 of Pay Matrix (Rs. 78,800-2,09,20) with five years' service in the grade rendered after appointment thereto on regular basis and possessing the educational qualifications and experience as prescribed in the preceding paras [Para 2 & 3(a)] and having successfully completed 2-4 weeks of training in relevant fields or area as specified by NITI Aayog will also be considered along with outsider and if a Departmental Deputy Adviser is selected for appointment to the post of Joint Adviser, it will be treated as having been filled by promotion.

Deputy Adviser

The Departmental Senior Research Officer of the NITI Aayog in level-11 of Pay Matrix (Rs. 67,700-2,08,700) with five years' service in the grade rendered after appointment thereto on regular basis and possessing the educational qualifications and experience as prescribed in the preceding paras [Para 2 & 3 (a)] and having successfully completed 2-4 weeks of training in relevant fields or area as specified by NITI Aayog will also be considered along with outsiders and if a Departmental Senior

Research Officer is selected for appointment to the post of Deputy Adviser, it will be treated as having been filled by promotion.”



7. We would have certainly examined the question as to whether, respondent nos. 3 to 6 have fulfilled the qualifications or whether they have been selected, despite the fact that they did not possess the qualifications or had it been a case, where the applicant was qualified and is a candidate in the reckoning. Admittedly, the applicant was not called for interview and nor did he seek a declaration in this OA that he was entitled to be treated as qualified or eligible. Once the applicant did not feel the necessity of seeking a declaration in his favour as to the eligibility, he cannot challenge the selection of other candidates. In such cases, the challenge tends to become the one in the form of quo warranto. Such a course is not permissible under the scheme of the Administrative Tribunals Act, 1985.

8. We do not find any merit in the OA and, accordingly, the same is dismissed. There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/ns/