

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
New Delhi

10

O.A. No. 2640/1999

New Delhi, this 21th day of the December, 2000

HON'BLE MR. V.K. MAJOTRA, MEMBER (A)
HON'BLE MR. SHANKER RAJU, MEMBER (J)

Smt. Krishna Gautam,
1608, Laxmi Bai Nagar,
New Delhi - 110 023.

... Applicant

(By Advocate : Shri B. K. Aggarwal)

VERSUS

Union of India though

1. The Secretary,
Ministry of Human Resource Development,
Shastri Bhavan,
New Delhi.

2. The Secretary,
Department of Personal & Training,
New Delhi.

3. The Director General,
Archaeological Survey of India,
Janpath,
New Delhi-110001.

4. The Dy. Director (Administration)
Archaeological Survey of India,
Janpath,
New Delhi-110001.

5. Smt. Kanchan Bala

6. Sh. Dhirender Singh

7. Sh. Rajinder Singh

8. Smt. Molly Thomas

9. Sh. Khushal Singh

10. Sh. Robert Samuel

(Service to be effected
through Respondent No.4)

... Respondents

(By Advocate: Shri D.S. Mahendru)

ORDER (ORAL)

By V.K. MAJOTRA, MEMBER (A):

The applicant is aggrieved by the action of the respondents in making appointments as Works Assistant Grade III in Archaeological Survey of India in an arbitrary manner and against the recruitment Rules. She has assailed the respondents reply dated 23.03.1999 in response to her legal notice in respect of the test held

↳



in April 1999 allegedly contrary to the then Recruitment Rules, 1968.

2. The applicant is a permanent Attendant in the Office of Respondent No.3 since 10.8.1983. She has claimed that the post of Works Assistant Grade-III is equivalent to the post of LDC in the Office of Respondent No.4. Both posts are in Grade 'C' and are non-gazetted. According to the applicant, the respondents have made appointments to the post of Works Assistant Grade III in violation of the Recruitment Rules, 1968 and contrary to the Circular of the Ministry of Home Affairs dated 8.2.1990, in accordance with which candidates having been awarded certificate by the Hindi Teaching Scheme for passing the Hindi Typewriting Examination have to be granted exemption from the Typewriting Test. However, Respondent No.4 has been carrying on with making appointments on ad-hoc basis against the Rules in an arbitrary manner, after holding internal Typewriting Examination. It is averred that under Recruitment Rules for Grade 'C' non-gazetted posts, vide Notification dated 15.06.1968, the posts of Works Assistant Grade-III have to be filled up by 100% direct recruitment basis for ^{which} ~~this~~ qualifications are matriculation or equivalent and minimum speed of 30 W.P.M. in typewriting. However, a person not possessing the said qualification in typewriting may be appointed, subject to the condition that he will not be eligible for drawing increments in the pay scale, or for quasi-permanency, or for confirmation in the grade till he acquires a speed of 30 W.P.M. in typewriting. According to the applicant

ls

(12)

passing the typewriting test is not a pre-requisite condition for appointment to the post of Works Assistant Grade-III as per the Recruitment Rules. The applicant has alleged that qualification of persons at Serial Nos. 1, 2, 3 and 5 in the seniority list is below matriculation. Therefore, the applicant who has been shown at Serial No.6 in the seniority list dated 3.2.1997 actually stands on Serial No.3 according to her qualification. The applicant has further alleged that Respondent No.4 has appointed Grade 'D' employees as ad-hoc Works Assistant Grade-III by holding the Typewriting Test as is evident from Memorandum dated 22.03.1990 (Annexure A-3), contrary to Recruitment Rules of 1968 and instruction contained in Memorandum dated 08.02.1990. It has been stated that the applicant did not appear in the English/Hindi Typewriting Test held on 24.03.1990. The applicant has stated that there is no 100% recruitment from Staff Selection Commission to the post of LDCs. The applicant has further alleged that as per the Circular dated 20.04.1999 (Annexure A-12), the applications were invited for filling up the vacant posts of Works Assistant Grade-III in the Headquarter Office, New Delhi by 03.05.1999 from candidates who have the following qualifications:-

1. Educational qualification : Matriculation
2. Eligibility : Office Attendants borne on regular establishment of Archaeological Survey of India (Hqrs. Office).
3. The candidates admitted for typing test are required to type 30 W.P.M. in English and 25 W.P.M. in Hindi.

(4)

13

3. The applicant has taken exception to the candidature of one Shri Rajender Singh who do not belong to the Headquarters Office. Since he is a relation of an employee working in the Administration Branch, he was brought in the Headquarters Office only 2-3 months before holding the examination to select him by way of favour.

The applicant has sought the following reliefs:-

- 8.1 Directions be given to the Respondents to produce the original records before this Hon'ble Tribunal pertaining to the appointments of Respondents 5 to 10;
- 8.2 Office Order dated 17.5.1999 be quashed and appointments of Respondents 5 to 10 be quashed being de-hors the Rules;
- 8.3 Directions be given to the Respondents to insert the clause in the notification dated 5.5.1999 as contained in Circular No. 1/90 issued by the Ministry of Home Affairs;
- 8.4 Letter dated 23.8.1999 (Annexure A-1) be declared null and void holding that typing test was and is not a pre-requisite in the case of the applicant;
- 8.5 Directions be given to the Respondents No.3 and 4 to consider and appoint the applicant as Works Assistant Grade III or LDC from the date her juniors have been promoted or regularised;
- 8.6 Quash the posting/transfer order of the applicant to Purana Quila;
- 8.7 That the respondents may be directed to pay costs of this litigation; and
- 8.8 Any other or further relief which this Hon'ble Tribunal may deemed fit in the facts and circumstances of the case may also kindly be allowed in favour of the applicant and against the respondent.

4. At the outset the respondents have taken objection that applicant has prayed for multiple reliefs in single application and, therefore, the OA is liable to be dismissed. In this regard, the learned counsel of the

h

(5)

14

applicant Shri B.K. Aggarwal stated that he does not press the relief 8.6 in regard to applicant's transfer. As regards promotion, she has solicited for consideration and applicant's appointment as Works Assistant Grade-III or LDC from the date her juniors have been promoted or regularised. The learned counsel of the applicant stated that in case the applicant is considered for promotion to the post of LDC, the relief related to Works Assistant Grade-III need not be considered. Insertion of amendment clause in the Notification dated 5.5.1999 as per instructions contained in the Circular No.1/90 dated 08.02.1990 issued by the Ministry of Home Affairs for recognising certificate granted by Hindi Teaching Scheme has not been pressed by the learned counsel of the applicant. The remaining reliefs are consequential to the relief related to applicant's consideration for appointment as Works Assistant Grade-III/LDC. Having regard to the above discussion, we find that the applicant does not seek multiple reliefs.

5. In their counter, the respondents have maintained that Archaeological Survey of India has got two grades i.e., LDC or Works Assistant Grade-III both in the pay scale of Rs. 3050-4590/- and are group 'C' posts. The vacant posts of LDCs in the organisation are filled through concerned regional Staff Selection Commissions. Whereas the posts of Work Assistant Grade-III are utilised in the Directorate Office and are filled by direct recruitment/ promotion subject to passing typewriting test of prescribed standard. According to the respondents, the applicant never appeared in the

15

(6)

15

typewriting test and the certificate awarded to her by Hindi Teaching Scheme is not relevant for selection to the post of Works Assistant Grade-III. The respondents have stated that Recruitment Rules for the post of Works Assistant Grade-III have provided promotion on the basis of seniority subject to matriculate qualification, and passing of departmental typewriting test. The respondents have also stated that the applicant's claim for consideration in the grade of LDC is under consideration and the applicant will be informed at an appropriate time in near future.

6. We have heard the learned counsel of both sides and considered the material on record.

7. As to applicant's candidature for the post of LDC, the respondents had vide Annexure A-11 dated 30.04.1997 invited application up to 30.05.1997 for filling up of 10% quota posts in the grade of LDCs in the pay scale of Rs.950-1500/- by promotion from Class-IV employees under the Recruitment Rules, 1995. In this regard the respondents have in their counter admitted that the applications of eligible group 'D' employees of the Archaeological Survey of India are under consideration for filling up 10% promotion quota posts in the Grade of LDC and that the applicant would be informed at an appropriate time. We find that the applicant had made an application for promotion against 10% promotion quota posts in the grade of LDC in response to the Circular dated 30.04.1997. As per Circular No. 1/90 dated 08.02.1990 issued by the Ministry of Home Affairs

by

16

regarding recruitment of LDCs grade, the Ministry of Home Affairs enclosing a copy of Ministry of personnel, Public Grievances and Pension, DOP&T Memorandum dated 08.08.1988, stated that the certificate issued by Hindi Teaching Scheme for passing the Hindi Typewriting Examination had been recognised and put at par with Staff Selection Commission w.e.f. 23.03.1985 for the purpose of regularisation of LDCs, grant of increments etc. The DOP&T had also issued instructions for amendment of the Recruitment Rules where necessary. Whether or not Archaeological Survey of India had incorporated the relevant provision regarding equivalence of certificate issued by the Hindi Teaching Scheme with Hindi Typewriting Examination in their Recruitment Rules, it will have applicability to the recruitment of LDCs. Under Archaeological Survey of India (Class-IV non-gazetted post) Recruitment Rules, 1968. 100% direct recruitment has been prescribed for LDCs (other than those including in Grade-III in Central Secretariat Clerical Service). The learned counsel of the applicant submitted that the respondents have not followed 100% direct recruitment and have been promoting people from Class-IV. This is substantiated from the respondents reply that filling up of 10% promotion quota in the post of LDCs is under consideration of the respondents for filling up of 10% promotion quota in the grade of LDC. Annexure A-8 is the seniority list of Attendants group Class-IV as on 03.02.1997 in which the applicant has been shown at Serial No.6. Keeping in view, the educational qualification mentioned in the seniority list, we go alongwith the applicant that she is the 3rd senior most

W

17

eligible candidate for the post of LDCs. Finding that the applicant is eligible under the Circular dated 30.04.1997 and also holding that since the applicant holds a certificate of Hindi typewriting test of Hindi Teaching Scheme, she cannot be subjected to Hindi Typewriting Examination as per the Circular dated 08.02.1990 (Annexure A-1), it is fit and proper to direct the respondents to consider applicant's application and candidature for filling up of 10% promotion quota in the grade of LDC without subjecting her to Hindi Typewriting Examination. The respondents are directed to finalise and convey the result of the candidature of the applicant for the post of LDC within a period of two months from the date of communication of this order. Ultimately on consideration of her candidature for the post of LDC, if the applicant is selected for the post, the respondent are directed to accord promotion/regularisation to her with effect from the date her junior was promoted/regularised.

8. As regards, the applicant's claim for consideration against the post of Works Assistant Grade-III, although the respondents had initiated the process of recruitment on the post, while the old rules were prevalent, yet its substantial portion has already been completed by the respondents. After the new Recruitment Rules came into existence on 05.05.1999 (Annexure R-4), one of the candidates for the post of Works Assistant Grade-III, Shri Rajender Singh, is alleged to have been transferred to Headquarter Office a few months earlier to make him eligible for selection for the post of Works Assistant

bb

(9)

18

Grade-III. We do not find enough material to substantiate that there had been any favour for Shri Rajender Singh in his transfer. Transfer is a routine administrative matter and cannot be objected to ordinarily. The learned counsel of the applicant has clarified the relief contained in para 8.5 of the OA that the applicant is a claimant for consideration in one of the two posts namely, LDC/Works Assistant Grade-III. Thus we are not inclined to probe further into the legality or otherwise of recruitment being made for the post of Works Assistant Grade-III as the recruitment process has already been completed and various candidates have already been appointed. Further, we have already given above directions about considering applicant's claim for the post of LDC. The OA is disposed of in the above terms. No costs.

S. Raju

(SHAKER RAJU)
MEMBER (J)

V.K. Majotra

(V.K. MAJOTRA)
MEMBER (A)

/ravi/