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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

...
OA No. 1210/98

New Delhi, this the 12th day of May, 1999

HON'BLE SHRI T.N. BHAT, MEMBER (J)
HON'BLE SHRI S.P. BISWAS, MEMBER (A)

In the matter of:

Sh. Virendra Pandey
S/o Sh. Ramnath Pandey
Aged About 29 years 8 months
R/o B-4/88 Nehru Nagar,
New Delhi.
(By Advocate: Sh. N.S.Dalal)

.... Applicant

Vs.

1. Union of India
Ministry of Human Resources Development,
Department of Culture through its Secretary,
Shastri Bhawan,
New Delhi-110001.

2. Director General
Achaеological Survey of India,
Janpath, New Delhi-110001.

3. Union Public Service Commission
through its Secretary,
Shahjahan Road,
New Delhi-110001.

.... Respondents

(By Advocate: Sh. K.C.D.Gangwani &
Sh. S.K.Gupta)

J U D G M E N T

By Hon'ble Shri T.N.Bhat, Member (J)

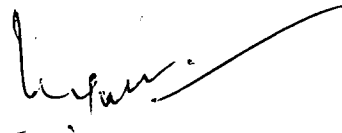
The applicant who after passing MA in History secured Diploma in Archaeology from an Institute run by the respondents, is aggrieved by the fact that the respondents have changed the eligibility conditions for recruitment to the post of Assistant Archaeologist (AA, for short) under Resp. No.2 which has resulted in denial of opportunity to the applicant to secure employment against one of the posts of AA.

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2. The main contention of the applicant is that when the applicant was admitted to the diploma course the said diploma was recognised as the prescribed qualification for appointment to the post of Assistant Archaeologist together with the qualification of MA in History. The respondents later changed the requisite qualification from MA in History to Masters Degree in Ancient and Medieval History. When the applicant applied for one of the posts advertised by the UPSC, Resp. No.2, according to the applicant, gave an oral assurance to the applicant that he would be considered even though he had not secured the qualification of Masters Degree in Ancient and Medieval History but had only the Masters Degree in History. Later, however, the applicant was not considered on the ground that he did not have the requisite qualification. The applicant accordingly made a representation which, however, was not disposed of by the respondents.

3. The applicant prays for the following reliefs:-

- "a) Direct the respondent No.1 & 2 to make necessary relaxation by issuing clarification/corrigendum to the respondent No.3 to consider the candidature of the applicant as eligible on the basis of his qualification for the post of Assistant Archaeologist advertised vide advertisement No.3 (Item No.9) in Employment News dated 14-20 February, 98;



(12)

"b) Direct the respondent No.3 to consider the case of applicant for the post of Assistant Archaeologist contained at S.No.9 in Advertisement No.3 of Employment News dated 14-20 February, 98.

"c) Pass any such further order as may be deemed fit in the facts and circumstances of the case."

4. It needs to be mentioned here that after securing the Post Graduate Diploma in Archaeology the applicant had for some time been employed with respondents on daily wage basis.

5. The respondents have resisted the applicant's claim on the ground that the applicant does not possess the requisite qualification and has, therefore, rightly not being considered. It is, however, admitted that in the past some persons having the same qualifications as held by the applicant had been appointed. It is, however, contended that the qualifications were later changed.

6. According to Recruitment Rules (R-3) for the post of Assistant Archaeologist the prescribed qualification is Masters Degree in Ancient or Medieval History or equivalent with Post Graduate Diploma in Archaeology from the Institute of Archaeology run by the respondents. According to the respondents the change in the Recruitment Rules was necessitated by the fact that

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there was a merger of two cadres, namely, Technical Assistant and Senior Technical Assistant pursuant to a judgment of the Hyderabad Bench of this Tribunal.


7. The applicant has also filed rejoinder to the counter filed by the respondents.

8. We have heard the learned counsel for the parties at length and have perused the material on record.

9. During the course of his arguments the learned counsel for the applicant vehemently contended that in view of the facts and circumstances of the case the respondents ought to have granted the necessary relaxation to the applicant. For this the learned counsel has relied upon the following note below Col.8 of the Schedule to the Recruitment Rules dated 21.8.93 (R-3):-

"Qualifications are relaxable at the discretion of the Union Public Service Commission in case of candidates otherwise well-qualified."

The learned counsel has sought to bring out the so-called grounds on the basis of which the applicant was entitled to relaxation. However, when it was pointed out to him that the Court/Tribunal cannot issue any directions for granting relaxation the learned counsel could not give any convincing reason for seeking such a direction from the Tribunal. This Tribunal has in a number of judgments delivered earlier held that relaxation cannot be claimed as of right. In the judgment dated 17.7.96 in OA



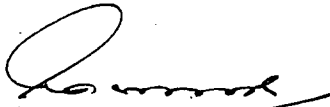
No.1480/96 (copy at R-6) the Tribunal held that where the applicant did not fulfil the eligibility criteria as regards educational qualifications the action of the respondents in not calling him to the interview cannot be said to be either unjust or arbitrary. Similarly, in another judgment dated 19.7.96 delivered in OA No.1518/96 the Tribunal held that where the Government has power to make relaxation only after consultation of the UPSC the mere fact that the Government has made a suggestion for relaxation cannot by itself be a ground for claiming the relaxation unless the UPSC agrees with the suggestion. It was further held that there is a presumption that all official acts are in accordance with law and regulation.

10. It is not seriously disputed that the appropriate authority can at any time amend the Recruitment Rules or even frame new rules prescribing changed qualifications. Unless those amended rules take away any vested right of an employee the same cannot be struck down. As regards relaxation, as already mentioned, there can be no direction from the Court to grant relaxation where the candidate admittedly does not possess the requisite qualifications laid down by the Recruitment Rules.

11. In view of the above, we find no merit in this OA which is accordingly dismissed. We, however, make it clear that the dismissal of this OA would not act as a bar for the respondents to consider the representation of the applicant and to take a decision thereon taking into account the facts and circumstances of the case.

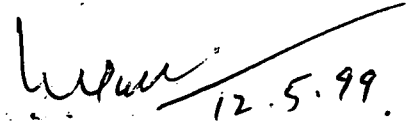
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12. With this order the OA is disposed of, but
without any order as to costs.



(S.P. BISWAS)
Member (A)

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 12.5.99.

(T.N. BHAT)
Member (J)