

Central Administrative Tribunal
Principal Bench: New Delhi

O.A. No. 1516/98

New Delhi this the 27th day of January, 2000

Hon'ble Mr. Justice V. Rajagopala Reddy, VC(J)
Hon'ble Mr. R. K. Ahooja, Member (A)

1. Dr. Roshan Lal
S/o Late Shri Sadhu Ram Sharma,
R/o 411, Krishikunj, IARI,
New Delhi-110 012.

2. Dr. Dharam Raj Singh,
S/o Shri Ishak Pal,
R/o 541, Krishi Kunj, IARI,
New Delhi-110 012.

...Applicant
(By Advocate: Mrs Meera Chhibber)

Versus

1. Union of India,
through Secretary,
Ministry of Agriculture,
Department of Agricultural Research &
Education, Room No. 105 ICAR
Govt. of India, krishi Bhawan,
New Delhi.
2. Indian Council of Agriculture Research,
through Secretary/D.G. Krishi Bhawan,
New Delhi.
3. Agricultural Scientists Recruitment Board,
through Chairman, Krishi Anusandhan Bhawan,
Pusa Rod, New Delhi.
4. Mr. S. Selvarm,
Division of Agricultural Economic &
Statistics
ICAR Research Complex for NEH Region,
Barapani- 793001.
5. Mr. Abhaya Kumar Singh Yadav
Division of Agri. Economics & Statistics
ICAR Research Complex for NEH Region,
Barapani-793001.
6. Mr. Naresh Kumar Yadav,
Division of Agrl. Economics & Statistics,
ICAR Research Complex for NEH Region,
Barapani-793001.
7. Mr. Sivakumar K.M.
Agrl. Economics,
Central Agricultural Research Institute,
Port Blair-744101, Andaman (India).

....Respondents
(By Advocate: Shri B.S.Mor)

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ORDER (Oral)

By Mr. R.K. Ahooja, Member (A)

The applicants herein before us are Technical Assistant, and Technical Officers working in the division of Agricultural Economics, IARI, New Delhi. The next post available to them in the hierarchy is that of Scientists-I. The post in the grade of Scientist-I is filled by the Direct Recruitment on an All India basis through a Competitive Written Examination conducted by the Agricultural Scientist Recruitment Board. The said Board had advertised the vacancies in 1994 and on the basis of that examination the results were declared in 1995 whereby 14 persons were declared qualified. These results were challenged by the applicants on the ground that the reservation quota in effect had exceeded 50%. The Tribunal in its order in OA-1752/95 dated 23.2.96, allowed the OA and directed the respondents to make appointments to vacancies in various disciplines without exceeding the permissible limit of reservation treating that reservation was to be applied disciplinewise/subjectwise. The respondents thereafter filed a SLP before the Supreme Court which was, however, withdrawn making submission that they were implementing the order of the Tribunal. Thereafter the earlier result was cancelled and a fresh result was notified dropping the names of four Roll Nos. of OBC candidates in the discipline of Agricultural Economics. Applicants have, however, ~~not~~ come

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again before the Tribunal alleging that subsequent to this result, respondents have again made the appointment of candidates bearing the Roll Nos. which had been dropped. They alleged that these candidates had obtained lesser marks than the applicants in the examination and even though no place was available for them in the reservation quota. Accordingly they challenge the order of their appointment and seek a direction for their promotion.

2. The respondents in the reply have stated that in the aforesaid background a peculiar situation had arisen in which 75 candidates belonging to the reserved category whose names had been notified earlier had been deprived of appointment because of the decision of the Tribunal that reservations will be on discipline basis and not as a whole. Bearing in mind the problems faced by the candidates for no fault of theirs, the respondents wrote to the DOPT who had advised that the respondents may consider adjusting this reservation category candidates either against available vacancies or in the alternative against future vacancies. Accordingly, four candidates who are also private respondents 4 to 7 were given appointment against future vacancies for the year 1995.

3. In the rejoinder the applicants have refuted the aforesaid explanation given by the respondents. They state that the Agricultural Recruitment Board had advertised the post for

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1995 and 1996. Also on the basis of those examination sufficient number of reserved category candidates have been appointed. They submit that since the private respondents have been given appointment even though they have lesser marks, the applicants are also entitled to be appointed as Scientist-I.

4. We have heard the counsel. It is now settled that the private respondents before us were not entitled to be appointed in respect of vacancies advertised in 1994. The case of the respondents is that in view of the peculiar background of the case, an attempt was made, as a one time measure, to adjust such candidates who had been left out to adjust their against the future vacancies. As pointed out by Mrs Chhibber learned counsel for the applicant it has been held by the Supreme Court in the case of Ashok Kumar & Others Vs. Chairman Banking Service Recruitment Board and Others 1996 (1) SCC 283 that appointments in excess of the notified vacancies cannot be made. This is more so, since advertisement had already been issued by the Agricultural Recruitment Board for vacancies available for the years 1995 and 1996. Even here the applicant's case is that candidates have been selected for all the vacancies which was notified in 1995-96.

5. Learned counsel for respondents Shri Mor submits that out of the four candidates one did not join while two, after joining, have

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resigned. Only one of the candidates continues in service i.e. R-7. Though notice has been given to the said candidate ~~who~~ ^{who} has chosen not to ^{to} ~~affair~~ ^{affair} ~~here~~ or file a reply.

6. In the aforesaid facts and circumstances, we are of the view that the appointment of the private respondents even if made against anticipated vacancies was not valid. Accordingly the order of appointment given to Respondent No. 4 to 7 is quashed and set aside. The OA is accordingly allowed to this extent with no order as to costs.

~~R.K. Ahooja~~
(R.K. Ahooja)
Member (A)

~~V. Rajagopala Reddy~~
(V. Rajagopala Reddy)
Vice-Chairman (J)

cc.