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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1842/1998

New Delhi, this 4th day of May, 1999

Hon'ble Shri T.N. Bhat, Member (J)
Hon'ble Shri S.P. Biswas, Member(A)

Baldev Singh
A-253, Moti Bagh I
New Delhi-110 021 .. Applicant

(By Shri B.B. Raval, Advocate)

versus

Union of India, through

1. Cabinet Secretary
Rashtrapati Bhavan
New Delhi
2. Director-General (Security)
Cabinet Secretariat
East Block V, R.K.Puram, New Delhi
3. Principal Director
Aviation Research Centre
East Block V, R.K.Puram, N. Delhi .. Respondents

(By Shri R.P. Aggarwal, Advocate)

ORDER

Hon'ble Shri S.P. Biswas

The applicant is before us challenging the Memorandum dated 10.8.98 vide which he has been intimated that he does not possess basic educational qualification and also is overaged to be considered for interview call for the post of Technical Assistant (TA for short)/Library in the pay scale of Rs.4500-7000 by direct recruitment. Consequently, he seeks issuance of directions to the respondents to quash the aforesaid memo and directing them to consider him for the post of TA.

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2. By an interim order dated 5.10.98, for the reasons mentioned therein, respondents were allowed to continue the process of selection but not to make appointment of the incumbent till the next date of hearing.

3. The case of the applicant is that though he joined service as Constable on 11.7.75 (redesignated later on as Field Assistant), from the day one he continues to work in Library almost for over 24 years under the respondents including two spells on deputation with National Security Guard on higher post of Ranger I/Librarian. Applicant also claims to possess Diploma as well as Certificate in Library Science from a recognised institute. For more than two decades, applicant deals with accession, issue and return of books, circulation of magazines, cataloguing, classification and all essential functions pertaining to working of the library. That apart, applicant has been working with utmost satisfaction of his seniors and superiors for which he was taken one rank up on deputation to National Security Guard on two occasions knowing fully well that he belongs to general cadre at the time of his recruitment.

4. Applicant would argue that in the advertisement circulated in the year 1992 for the post of Assistant Librarian in the grade of Rs.1640-2900 (revised to Rs.5500-9000), the qualifications were

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lower than the present post of TA though no experience is needed for the present post according to the circular under reference.

5. While opposing the claims, respondents have submitted that the post of TA in the scale of Rs.4500-7000 was advertised vide circular dated 15.4.98 and the qualifications required for the above post are (i) Degree of recognised university or equivalent, (ii) Degree or equivalent Diploma in Library from a recognised institute and (iii) 18-30 years of age (relaxable only in the case of SC/ST candidates) in accordance with the instructions issued by the Central Government. Applicant applied for the post of TA/Library and his application could not be entertained on account of the following: That the applicant does not have the requisite qualification of degree from a recognised university and that he is over-aged being 47 years of age. In short, the post is required to be filled in terms of Recruitment (Amended) Rules, 1983 and the applicant does not *satisfy* the conditionalities stipulated in the said R/Rules. ^{same} Respondents would further submit that applicant was recruited as Constable/Field Assistant and his next promotion in the executive cadre is for Senior Field Assistant (SFA-G). The promotional post of SFA(G) is being filled up 100% by promotion from the cadre of FA(G) with five years service in the initial cadre. The post of TA/Library is a different cadre post than SFA(G)

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cadre. Applicant's name could not be considered for the post of TA/Library mainly due to lack of requisite qualifications and of being overaged.

6. We find that the applicant has been working in the library for more than two decades. Respondents in their counter dated 1.12.99 ^{have} admitted that the applicant has worked for 24 years in the library though ^{^ sound} would submit that merely working for long period does not make him eligible for selection for the post of TA. Satisfactory working of the applicant in the capacity of Librarian is not in dispute in view of the documents at A-3 to A-5 respectively. Applicant also appears to have received commendations/cash awards several times in recognition of the good work done by him towards maintenance of records/cataloguing/classification etc. in the library attached to the respondents. It is also seen that prior to 1992, the qualification required for Assistant Librarian was lower than the present post of TA/Library. It is on account of this that the applicant has assailed that the respondents are following 1983 Rules wrongly. It is not in doubt that the applicant has been physically working in the library well before 20.5.83 when the present R/R came into being and that few developments thereafter have taken place which necessitated modification of 1983 R/Rules. These developments are available in the instructions issued by the DoPT in 1993 entitled "Hand Book on Recruitment Rules" pertaining to the post of Library and Information Assistant in the

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scale of Rs.1400-2600. In the Hand Book it has been mentioned that age and educational qualification prescribed for direct recruitment will not be applicable in the case of promotion. Applicant in this case is only seeking promotion from Library Clerk (Rs.950-1500) to Library Information Assistant (Rs.1400-2600). It is obvious that the model R/Rules for the post of Information Assistant (equivalent to TA) as issued by DoPT in 1993, prescribe that the conditionalities of age and educational qualification as required in the case of direct recruitment may not be applied in the case of promotees. It is also seen that the report of "Review Committee on Library Staff", as issued by Department of Expenditure, does not contain any category as TA. Following the recommendations of the Review Committee set up by Department of Culture in September, 1987, Government decided to introduce pay structure in Library Staff as contained in Annexure in A-12. It mentions that officials working as Library Clerk in the grade of Rs.950-1400 can be considered for promotion to the post of Library Information Assistant in the grade of Rs.1400-2600. The Review Committee has not come with any specific category as TA/Library. We also find that the Ministry of Human Resources Development (Department of Culture) modified the relevant R/rules in June, 1996. In Col. 9, it mentions that qualification prescribed for direct recruitment will not be applicable in the case of

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promotion. In this connection, relevant portion of OM dated 12.8.92 issued by DoPT as at A-13 is worth mentioning:

"This would of course be without insisting on the qualifications prescribed for direct recruitment for this post. This is being suggested as while there would be no recruitment in future to all those grades, it would be necessary to provide for some promotional avenues for persons presently working in those grades so that they do not stagnate for their entire career in the same grade.

All the Ministries/Departments are requested to adopt these model Rules with suitable modifications, if necessary depending upon their peculiar requirements. However in case of any deviations from these Model Rules the approval of this Department may be obtained"

7. It is thus established that neither respondents have taken care of the subsequent developments in 1992, 93 and 96 to suitably modify 1983 R/Rules as was expected of them nor they have taken into consideration the guidelines as aforesaid while rejecting applicant's candidature for the post of TA. Practical experience would always help a person to effectively discharge his/her duties and is a sure guide to assess suitability. Rigid observation of stipulated conditions may not be insisted upon in extremely proven deserving cases. If any authority is required for this purpose, it is available in the case of Bhagwati Prasad Vs. Delhi State of Mineral Development Corporation, AIR 1990 SC 371. In the background of the facts and circumstances of the case, we are of the firm view that the applicant's case deserves to be considered

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by relaxation of rules in terms of judicial pronouncements of the apex court in the cases of Bhagwati Prasad (supra) J.M.Puthuparamoil & Ors. V. Kerala Water Authority & Ors. (1991) 1 SCC 28; Rakinarayan Mohapatra V. State of Orissa AIR 1991 SC 1286 and All Manipur Regular Posts vacancies Substitute Teachers Assn. Vs. State of Manipur AIR 1991 SC 2088.

8. For the reasons stated above, we partly allow this OA with the direction to the respondents to consider the candidature of the applicant for the post of TA/Library alongwith others, by giving relaxations in respect of age and qualification with the approval of the competent authority. Whatever may be the decision, the same will be communicated to the applicant within a period of 3 months from the date of receipt of a certified copy of this order.

9. The OA is thus disposed of. No costs.


(S.P. Biswas)
Member(A)


(T.N. Bhat)
Member(J)
4.5.99.

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