

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 1856/96

199

T.A. No.

(8)

DATE OF DECISION 18-4-2000

Amar Nath Rai

....Petitioner

None present

....Advocate for the
Petitioner(s)

VERSUS

Union of India & Ors

....Respondent

None present

....Advocate for the
Respondents.

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The Hon'ble Smt. Lakshmi Swaminathan, Member (J)

The Hon'ble Shri V.K. Majotra, Member (A)

1. To be referred to the Reporter or not Yes

2. Whether it needs to be circulated to other
Benches of the Tribunal? No.

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)
Member (J)

Central Administrative Tribunal
Principal Bench

O.A. 1856/96

New Delhi this the 18th day of April, 2000

Hon'ble Smt. Lakshmi Swaminathan, Member(J).
Hon'ble Shri V.K. Majotra, Member(A).

Amar Nath Rai,
S/o late Shri K.D. Rai,
R/o 846, Baba Kharak Singh Marg,
New Delhi.

... Applicant.

(none present)

Versus

1. Union of India, through
its Secretary,
Ministry of Agriculture,
Krishi Bhawan,
New Delhi.
2. Secretary,
Department of Personnel & Training,
North Block, New Delhi.
3. Secretary,
Union Public Service Commission,
Shahjahan Road,
New Delhi.

... Respondents.

(None present)

O R D E R (ORAL)

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

The applicant has filed this application praying for quashing the amended Recruitment "Rules 2(b) and 2(c)" for the post of Director Farm Information (hereinafter referred to as 'Director'), Directorate of Extension, Department of Agriculture and Co-operation, Ministry of Agriculture.

2. The applicant has stated that the posts of Directors were filled in accordance with the earlier Recruitment Rules which were amended in 1996. He has submitted that as a matter of principle and practice the Department concerned do consult the staff working in the Unit/Department before review of the Recruitment Rules is

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done. According to him, this practice was not followed in the present case, that is, regarding consulting the staff for amending the existing Rules, for the post of Director which he has alleged has been done with some ulterior motives and designs. He has also submitted that the Recruitment Rules should have been reviewed keeping in view the interests of the working staff in the unit/cadre which has also not been kept in view. The applicant has submitted that in the earlier Recruitment Rules, there was no qualification prescribed for the post of Director, Directorate of Extension which is to be filled by promotion and failing which by transfer on deputation. He has submitted that on coming to know that the respondents are going to review the Recruitment Rules in 1995, he made a representation to them on 13.2.1995 against the amendment in the Recruitment Rules opposing inclusion of M.Sc Degree in Agriculture as essential qualification for the post of Director. He also submitted a reminder on 31.10.1995 which was replied by the respondents stating that prescription of M.Sc Degree in Agriculture in the amended Recruitment Rules is only meant for direct recruitment and in no way affects the interests of departmental candidates from the feeder grade. The applicant has stated that from these facts it is seen that the respondents have not cared for the view in his representation for consulting the staff working in the unit/cadre before moving for review of the existing Recruitment Rules nor there exist any promotions which were earlier open to them.

3. The applicant has submitted that the amended Recruitment Rule 2(b) is arbitrary in nature, which can be seen from the provisions itself which provides for M.Sc Degree in Agriculture as eligibility criteria for the post of

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Director, which is a post to be filled by promotion, failing which by transfer on deputation. He has also submitted that a M.Sc. Degree is not required for this post and is against the interests of the staff in the cadre. He has also stated that the amended Recruitment Rule 2(c) puts restriction on the staff in the cadre for applying to the post of Director for transfer on deputation, who are departmental officers in the feeder category and in direct line of promotion which, according to him, is also in clear violation of Articles 14 and 16 of the Constitution. Hence, the O.A. praying for quashing the amended Recruitment Rules.

4. We have seen the reply filed by the respondents. They have submitted that while the applicant has challenged the amendments in the Recruitment Rules for the post of Director, he is a promotee candidate in the feeder cadre to the post of Joint-Director (Farm Information) which, in turn, is a feeder cadre for the post of Director. They have submitted that as the applicant does not belong to the feeder cadre for the post of Director, he cannot challenge the amendments in the Recruitment Rules for that post. They have also submitted that while carrying out the amendments in the Recruitment Rules for the post of Director, the competent authority/Rules making authority have kept in view the interests of the feeder cadre. No changes have been made for the eligibility/selection criteria for promotion method and it is only for the direct recruitment that a higher qualification has been prescribed in the amended Recruitment Rules, that is for direct recruits and deputationists. They have also relied on the judgement of the Hon'ble Supreme Court in V.K. Sood Vs. Secretary Civil Aviation (Civil Appeal No. 2849/93), decided on 14.5.1993 which has been

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followed by the Tribunal in Suraj Singh & Others Vs. U.O.I. (OA 1680/94) and S.P.S. Dhaka Vs. U.O.I. & Others (OA 382/93). Rejoinder has also been filed by the applicant.

5. In V.K. Sood's case (supra), the Supreme Court has held as follows:

"It is for the rule making authority, which has the assistance of the experts etc. or the legislature to regulate the matter, prescribe the qualifications etc. This is not the province of the Court to trench into and prescribe qualifications in particular when the matters are of a technical nature".

In another case State of AP & Anr. Vs. V. Sadanandam & Ors. (AIR 1989 SC 2060), the same principles have been stated by the Hon'ble Supreme Court wherein it has been held that the mode of recruitment and the category from which the recruitment to a service should be made are all matters which are exclusively within the domain of the executive. It is not for judicial bodies to sit in judgement over the wisdom of the executive in choosing the mode of recruitment of categories from which the recruitment should be made as they are matters of a policy decision falling exclusively within the purview of the executive.

6. Following the aforesaid judgements of the Hon'ble Supreme Court, we are unable to find any force in the contentions of the applicant that the respondents have exceeded their powers in reviewing or amending the Recruitment Rules while prescribing the conditions of service for recruitment to the post of Director in the amended Recruitment Rules, 1996. The contention of the applicant that he and other members of the cadre in the lower posts,

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who are working in the Department have not been consulted before the respondents conducted a review of the Recruitment Rules and hence the Rules should be struck down. ^{is also not tenable.} Besides, the applicant has himself referred to the office order dated 10.11.1995 and his representations on the subject and so there is no substance in the submission that the Respondents did not care to consult the concerned unit/cadre.

7. The mode of Recruitment and the category from which the recruitment is to be made as well as the prescription of the eligibility qualifications for any particular post in the Recruitment Rules have to be considered by the competent authority, that is the Rule making authority, who has to take into account the relevant facts and circumstances of the case. This is a matter of policy falling exclusively within the purview of the executives. The contention of the applicant that the impugned amended Recruitment Rules will jeopardise his promotional opportunity and is against the interests of the working staff ^{in the unit} as the essential qualifications have been altered is also not ~~tenable~~ ^{tenable}. The amendments in the Recruitment Rules, do not affect the interests of the applicant as they prescribe conditions for direct recruitment and we are unable to agree with his contentions that there has been any violation of Articles 14 and 16(1) of the Constitution.

8. In the result, for the reasons given above, we find no good grounds to interfere in the matter or to quash ^{it}

The amended Recruitment Rules for the post of Director (Farm Information Unit). O.A. accordingly fails and is dismissed.
No order as to costs.

(V.K. Majotra)
Member (A)

(Smt. Lakshmi Swaminathan)
Member (J)

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