

CAT/7

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

O.A. No.  
T.A. No.

456/96

199

DATE OF DECISION

28.5.97

Sh. P.V. Narayanan

Petitioner

Sh. S.K. Gupta

Advocate for the Petitioner(s)

Versus

U.O.I. & Ors.

Respondent

Sh. S.M. Arif

Advocate for the Respondent

**CORAM**

The Hon'ble Mr. Dr. Jose P. Verghese, Vice-Chairman (J)

The Hon'ble Mr. S.P. Biswas, Member (A)

1. To be referred to the Reporter or not?

2. Whether it needs to be circulated to other Benches of the Tribunal?

*S. P. Biswas*  
(S.P. Biswas)  
Member (A)

Cases referred:

1. Govind Prasad Vs. R.G. Frasad (1994) 1 SCC 437.
2. State of M.P. & Ors. Vs. Tikamdoys AIR 1975 SC 1429
3. Ramana Dayaram Shett Vs. International Airport Authority (1979) 3 SCC 489.

(10)

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI.

OA-456/96

New Delhi this the 28<sup>th</sup> day of May, 1997.

Hon'ble Dr. Jose P. Verghese, Vice-Chairman(J)  
Hon'ble Sh. S.P. Biswas, Member(A)

Sh. P.V. Narayanan,  
S/o Sh. K. Sankara Marrar,  
R/o 16/32, Subhash Nagar,  
New Delhi-27. .... Applicant

(through Sh. S.K. Gupta, advocate)

versus

1. Union of India,  
through Chairman,  
Staff Selection Commission,  
CGO Complex, Lodhi Road,  
New Delhi-3.
2. Deputy Director,  
Staff Selection Commission,  
Southern Region, EVK Sampath Building,  
IIInd Floor, College Road,  
Madras. .... Respondents

(through Sh. S.M. Arif, advocate)

ORDER

delivered by Hon'ble Sh. S.P. Biswas, Member(A)

Heard rival contentions of counsel for both  
the parties.

2. The basic issue for determination in this  
O.A. is whether the benefits of age relaxation  
granted to LDCs/UDCs as departmental candidates as per  
para-iv(e) of Employment Notification dated 2-8 July  
1994 for the purpose of recruitment to the post of  
Inspectors of Central Excise, Income Tax etc., could  
be denied pursuant to subsequent administrative  
orders.

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3. Respondent No.2 (Staff Selection Commission) came up with an advertisement in July, 1994 for the purpose of recruitment to the post of Inspectors of Central Excise, Income Tax etc. and the upper age limit as prescribed therein was made relaxable as per conditions mentioned therein. Para iv(e) of the said Notification relevant for our purpose is quoted below:-

"Upper age limit is relaxable upto the age of 40 years (45 years for Scheduled Caste/Scheduled Tribe candidates) to the departmental candidates who have rendered not less than 3 years continuous and regular service as on 01.08.1994 provided they are working in posts which are in the same line or allied cadres and where a relationship could be established that the service rendered in the department will be useful for the efficient discharge of duties of posts for which the recruitment is being made by this examination."

4. In pursuance of the above Recruitment Notice, written test was conducted in November, 1994 and results published in the middle of December, 1995. And immediately before publication of the result, the respondents took a decision on 24.5.1995 that the guidelines (para iv(e)) regarding "nexus criteria for age relaxation" to the departmental candidates for recruitment to the above mentioned posts need not be followed as per the details in the note of the Chairman Staff Selection Commission dated 23.5.1995. The note, adduced in course of pleadings, mentions that all the pending cases and the cases that may crop up regarding age relaxation in future examination may be decided accordingly. Being aggrieved by Annexure A1

order dated 11.8.95 cancelling ~~the~~ candidature of the applicant, who is a LDC in Railway Board's Secretarial Services, is before us praying for the following reliefs:-

(i) Quash and set aside the memorandum dated 11.8.95.

(ii) Issue directions to respondents to give age relaxation and hold supplementary interview test.

5. The main plea taken by the applicant is that the LDCs\UDCs of Railway Board Secretariat Services were earlier made eligible for the age relaxation in the year 1990, 1991-1992 (Annexure A-6) for the same examination as the present one. The respondents, however, all of a sudden came up with the condition that there is no nexus with the duties and responsibilities presently being rendered by the applicant and those of the holders of posts of Inspectors of customs, Central Excise and Income Tax. The applicant would contend that there has been no change in the circumstances from 1990 onwards that could warrant a change in the conditions permitting age relaxation given in previous years. Pursuant to the Notification aforesaid, the applicant appeared in written test on 27.11.94 and he was declared successful. However, vide letter dated 11.8.95 the candidature of the applicant was cancelled on the

ground that he does not satisfy the nexus criteria as required in para-iv(e) of the Notification dated 2-6 July, 1994. The applicant represented his case against Annexure-A1 but the respondents decided to turn Nelson's eye to his representation.

6. Opposing the claim of the applicant, the respondents have submitted that the question of nexus had to be decided with reference to the nature of duties and responsibilities attached to the post held by the applicant viz-a-viz the post for which the above mentioned recruitment was being made. After considering the nature of duties and job responsibilities of the applicant, the respondents decided that there was no nexus between the post of the L.D.C. held by the applicant in the Ministry of Railways, Railway Board and the post for which recruitment was being made through the said examination. It has been submitted that the post of Inspector of Central Excise/Income-Tax etc. and the post held by the applicant are not in the same line or allied cadres. Hence the candidature of the applicant for the said recruitment was cancelled as he was otherwise overaged.

7. What qualifications or rules of relaxation are to be followed are for the respondent departments to work out. Courts/Tribunals are not to interdict in such policy matters unless they are perverse in nature or contrary to rules of natural justice. It is well

settled law that the appointments/promotions to posts in any cadre falling vacant at a particular point of time have to be based on rules, regulations and conditions stipulated for that very purpose at that relevant time. Once those rules and regulations have been duly notified and the candidates appeared in exams following those conditions, it does not lie in the mouth of the respondents to change those conditions behind their back without any prior notice to the affected parties. Executive orders modifying conditions already stipulated are to be effectuated with prospective effects only. If any authority is needed for this proposition, it is available in the cases of Govind Prasad Vs. R.G. Prasad (1994) 1 SCC 437: 1994 SCC (L&S) 579: and State of M.P. & Ors. Vs. Tikamdoys AIR 1975 SC 1429 decided by the Hon'ble Supreme Court. The respondents' decision dated 23.5.95 for not applying the nexus criteria for age relaxation which was published in July, 1994 should not have been applied with retrospective effect for the examination held in 1994.

8. We are tempted to extract a passage from the judgement of the Supreme Court in the case of Ramana Dayaram - Shett Vs. International Airport Authority (1979) 3 SCC 489) which is as follows:-

"It is well settled rule of administrative law that an executive authority must rigorously hold to the standards by which it professes its action to be judged and it must scrupulously

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observe those standards on point of invalidation of an act in violation of them."

The Hon'ble Supreme Court called out the aforesaid rule from the judgement of Mr. Justice Frankfurter in **Viteralli Vs. Saton** (359 US 535) which was a case relating to dismissal of an employee from service. The principle enunciated in Ramana's case has been extended to service jurisprudence by the Apex Court in **B.S. Minhas Vs. Indian Statistical Institute** (1983) 4 SCC 582).

9. In the result,

- (i) The O.A. is allowed.
- (ii) Annexure A-1 order dated 11.8.95 is quashed and set aside.
- (iii) Since the applicant had passed the written test, the respondents shall hold a supplementary interview test for the applicant for the post as advertised in July 1994 Notification within a period of one month after giving the applicant 10 days prior notice and if he qualifies in the interview the resultant benefits shall be given to the applicant.
- (iv) There shall be no order as to costs.

  
(S.P. Biswas)  
Member(A)

/vv/

  
(Dr. Jose P. Verghese)  
Vice-Chairman(J)