

CAT/1

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 1261/97
T.A. No.

199

(18)

DATE OF DECISION 3.4.98

Dr. Jagjit Singh

Petitioner

Sh. B.B. Raval with Sh. P.L. Mimroth

Advocate for the Petitioner(s)

Versus

UOI and ors

Respondent

Sh. R.S. Aggarwal for the official
respondents

Advocate for the Respondent

None for the private respondents

CURAM

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

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

1. To be referred to the Reporter or not? *Y*

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

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)
Member (J)

Central Administrative Tribunal
Principal Bench

O.A. 1261/97

New Delhi this the 3rd day of April, 1998

Hon'ble Smt. Lakshmi Swaminathan, Member (J).
Hon'ble Shri K. Muthukumar, Member (A). 19

Dr. Jagjit Singh,
S/o Shri Malkiat Singh Gill,
R/o C-34, IARI Campus,
Pusa, New Delhi-1100012. ... Applicant.

By Advocate Shri B.B. Raval with Shri P.L. Mimroth.

Versus

1. Union of India through
Secretary,
Department of Agriculture,
Research and Education,
Govt. of India, Krishi Bhawan,
New Delhi-110001.
2. The President,
Indian Council of Agriculture Research,
Krishi Bhawan,
New Delhi-110001.
3. Chairman,
Agriculture Scientists Recruitment Board,
Krishi Anusandhan Bhawan,
Pusa, New Delhi-12.
4. Dr. S.B. Sharma,
Sr. Scientist (Nematology),
International Crops Research Institute
for the Semi-Arid Tropics,
(Asia Region),
ICRISAT, Patancheru - 502324 (AP) ... Respondents.

By Advocate Shri R.S. Aggarwal for official respondents.

None for private respondents.

O R D E R

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

The applicant is aggrieved by the action of the respondents in selecting Respondent 4, Dr. S.B. Sharma, as Head of Nematology Division in Indian Agriculture Research Institute (IARI), New Delhi. According to the applicant, the selection has been done in contravention of the extant recruitment rules.

2. The respondents had published advertisement No. 3/96 dated 7.12.1996 calling for applications for appointment to the post of Head of Nematology Division, IARI, New Delhi. Para II of the advertisement provides the essential qualifications required for the post which is reproduced below:

"Qualifications:

(a) Essential.

i) Doctoral degree in Nematology or in Zoology/Entomology/Plant Pathology with specialisation in Nematology.

ii) Principal Scientist in the pay scale of (Rs.4500-7300) or in an equivalent position. or 8 years experience as a Senior Scientist (Rs.3700-5700) or in an equivalent position. or An eminent Scientist having proven record of Scientific contribution working in a reputed organisation/institutes having atleast 13 years experience in the relvant subject.

(iii) Evidence of contribution to research/teaching/extension education as supported by published work/innovations.

(iv) Specialisation and experience,

(a) experience of research/teaching/extension education in Nematology.

(b) Specialisation in any field of Nematology."

3. The main issue raised by the applicant in this O.A. is that Respondent 4 does not have the necessary qualifications required for the post of Head of Nematology Division. He has stated that while he has rendered 34 years continuous and meritorious service under Respondent 2, Respondent 4 was, in fact, his student's student and in the language of Shri B.B. Raval, learned counsel for the applicant, the applicaht was his 'grand teacher'. His contention is that while the applicant had fulfilled all the essential qualifications as advertised, Respondent 4 did not have the same, which is a condition for selection. He has submitted that Respondent 4 has neither got experience of 8

years as a Senior Scientist or in an equivalent position nor has he 13 years experience in the relevant subject stipulated in the essential qualifications. The applicant has submitted that Respondent 4 has only 10 years experience of research work and has no experience at all in the field of teaching extension education work or in administration. Besides the applicant, there were 14 other candidates, including Respondent 4 who had appeared before the Selection Board constituted by Respondent 3 for selection. Shri B.B. Raval, learned counsel, has submitted that a number of representations have been made by departmental candidates against their non-selection. The applicant's main grievance is that while he fulfilled the essential qualifications in all fields covering the duties or job of Head of Nematology and ought to have been selected, Respondent 4 who is an ineligible candidate has been selected by Respondent 3. Shri B.B. Raval, learned counsel for the applicant, has submitted that 'equivalent position' in the essential qualifications means that the person should have held an equivalence post in other institutions of UGC in India and not necessarily equivalence in the pay scales. His contention is that the fact that Respondent 4 has worked in an International Institution and may be getting higher pay scales does not mean that he is in possession of the essential qualifications. During hearing, the learned counsel, Shri B.B. Raval, has submitted that the Selection Committee in selecting Respondent 4 who was absolutely not qualified must have been "either drunk or have acted in such an arbitrary manner" that the selection of Respondent 4 should be declared as null and void and be set aside. The applicant has also prayed that a declaration may be given that he may

(22)

be declared as a successful candidate to the post of Head of Nematology being the only senior and most eligible candidate before the Selection Committee.

4. We have seen the replies filed by the respondents, including Respondent 4, and have heard Shri R.S. Aggarwal, learned counsel for the official respondents. It is not disputed that Respondent 4 has a Ph.D degree in Nematology, one of the subjects prescribed in the advertisement. He has obtained the Ph.D in 1983 and from 1986 he has worked in the International Crops Institute for Semi-Arid Tropics (ICRISAT) as S-I, from January, 1991 and November, 1996 as S-II and is now working as Senior Scientists w.e.f. 1.12.1996. Respondent 4 has categorically denied that he does not fulfil the essential ^{qualifications} conditions and also that he had been the 'student of student' of applicant. According to him, he had started research in Nematology from 1977 and he completed his M.Sc in 1979 and Ph.D in February, 1983, and, therefore, he gained 17 years of experience after M.Sc and about 14 years Post Doctral experience at reputed Institutes. He has also referred to a number of awards he has received the details of which he has given in his reply. The official respondents have also refuted the allegation made by the applicant that the selection process was deliberately delayed in order to allow Respondent 4 to compete, although the post fell vacant on 1.7.1996 and the post was advertised only after Respondent 4 got the promotion as Senior Scientist on 1.12.1996. They have submitted that besides the applicant a large number of candidates have applied and after due screening, those candidates who fulfilled the criteria given in the advertisement were given a chance to appear before the Interview Board. Their performance was adjudged by the

Selection Committee and they have submitted that there has been no irregularity in selection of Respondent 4 for the post for which he was also called for the interview as he fulfilled the necessary qualifications. They have also submitted that the applicant's ~~plea~~^{plea} without any substance and may be rejected. Shri R.S. Aggarwal, learned counsel has relied on the judgements of the Supreme Court in **Madan Lal & Ors Vs. The State of Jammu and Kashmir and Ors.** (1995(2) SLR 209) and **The Chancellor and Anr. Vs. Dr. Bijayananda Kar and Ors.** with connected case (1994(1) SLR P-17). The learned counsel has submitted that in the facts of the case, as held by the Supreme Court, the Tribunal should not interfere with the decision of the Selection Committee who are experts, as the applicant had also appeared before that Committee and he cannot, therefore, contend that the process of interview was unfair or the selection has not been properly conducted and so on.

5. We have also seen the rejoinder filed by the applicant. The respondents have submitted the file relating to the recruitment of Head of Nematology, IARI, New Delhi. We have carefully considered the pleadings and the submissions made by the learned counsel for the parties.

6. We find from the records submitted by the official respondents that in the preliminary screening statement, the applicant who is placed at Serial No. 8 has been stated to be eligible and respondent 4 at serial No. 17 as 'seems to be eligible'. There were in all 19 candidates who were found eligible to be called for interview for the post of Head of Nematology Division whose names appear in the preliminary screening statement. This list has been approved

by Respondent 3 - Chairman, ASRB. The vehement contentions of Shri B.B. Raval, learned counsel that Respondent 4 does not have the essential qualifications are not supported by the documents on record. For the post of Head of Nematology the essential qualifications prescribed were Docotoral degree in Nematology, Principal Scientist or an equivalent postiion, or 8 years experience, as a Senior Scientist or an eminent Scientist having proven record of Scientific contribution working in a reputed organisation/institutes having atleast 13 years experience in the relevant subject. Respondent 4 has referred to his record of Scientific Contributions, Awards, published documents, etc. Taking into account the qualifications prescribed and those possessed by Respondent 4, we are unable to agree with the contentions of Shri B.B. Raval, learned counsel, that Respondent No. 4 does not fulfil the essential qualifications as he has more than 13 years experience in the relevant subject. Besides, the competent authority i.e. the Chairman, ASRB has also approved the list of 19 candidates as being eligible for interview, including the applicant and Respondent 4.

7. It is now well settled law that if a candidate takes a calculated chance and appears at the interview then, only because the result of the interview is not palatable to him, he cannot turn round and subsequently contend that the process of interview was unfair or Selection Committee has not been properly constituted and so on. The contention of the learned counsel for the applicant that the Selection Committee was either ⁱⁿ ~~in~~ inebriated state or otherwise selected Respondent 4 arbitrarily, ~~is~~ to say the least, is most uncalled for and totally unsupported by any documents on record. This contention is, therefore, rejected.

25

8. Another argument very vehemently urged by the applicant's counsel is that it was not only Respondent 4 who was supposedly working in a reputed organisation because it was an International Organisation and perhaps earning more salary but the applicant was also working in the IARI which was also a very eminent organisation and, therefore, the applicant should be selected to the post of Head of Nematology. He has referred to the Convocation Address by Dr. R.S. Paroda, Secretary, DARE and Director General, ICAR. We need not go into this contention because what has been stated in the advertisement is that the candidate should be working in a reputed organisation which apparently both these Institutions are, and both of them have been called for the interview. In Dr. Bijayananda Kar's case (supra), the Supreme Court has held as follows:

"This Court has repeatedly held that the decisions of the academic authorities should not ordinarily, be interfered with by the courts. Whether a candidate fulfills the requisite qualifications or not is a matter which should be entirely left to be decided by the academic bodies and the concerned selection committees which invariably consist of experts on the subjects relevant to the selection. In the present case Dr. Kar in his representation before the Chancellor specifically raised the issue that Dr. Mohapatra did not possess the specialisation in the "Philosophical Analysis of Values" as one of the qualifications. The representation was rejected by the Chancellor. We have no doubt that the Chancellor must have looked into the question of Dr. Mohapatra and got the same examined from the experts before rejecting the representation of Dr. Kar."

The judgement of the Supreme Court in Madan Lal's case (supra) is also very relevant to the facts of this case.

9. Having regard to the facts and circumstances of the case and the settled position of law, we find no merit in

(2b)

this application. O.A. is accordingly dismissed. The interim order dated 28.5.1997 stands vacated. No order as to costs.


(K. Muthukumar)
Member (A)
(Smt. Lakshmi Swaminathan)
Member (J)

SRD