

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

O.A./P.A. No 2125 of 1997 and
MANo. 158 of 1998

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Decided on: 25/3/98

Dr. (Mrs.) Kavita Gupta Applicant(s)

(By Shri B.T. Kaul Advocate)

Versus

U.O.I. & Another Respondent(s)

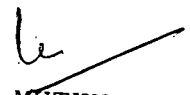
(By Shri R.S. Aggarwal Advocate)

CORAM:

THE HON'BLE SHRI K. MUTHUKUMAR, MEMBER (A)

THE HON'BLE SHRI

1. Whether to be referred to the Reporter or not? Yes
2. Whether to be circulated to the other Benches of the Tribunal?


(K. MUTHUKUMAR)
MEMBER (A)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. 2125 of 1997 and
M.A. No. 158 of 1998

New Delhi this the 25th day of March, 1998

HON'BLE MR. K. MUTHUKUMAR, MEMBER (A)

Dr. (Mrs.) Kavita Gupta
W/o Mr. Parag Gupta,
R/o E-12, Green Park Extension,
New Delhi-110 016.

...Applicant

By Advocate Shri B.T. Kaul.

Versus

1. Union of India through
the Secretary,
Ministry of Agriculture,
Krishi Bhavan,
New Delhi.
2. Indian Council of Agricultural
Research (ICAR),
through the Director-General,
Ministry of Agriculture,
Government of India,
Krishi Bhavan,
New Delhi.

...Respondents

By Advocate Shri R.S. Aggarwal.

ORDER

Applicant was a successful candidate in the Combined Competitive Examination 1992 for filling up vacancies of Scientists in the Agricultural Research Service (ARS). The vacancies were said to exist in various stations as mentioned in the annexure to the advertisement inviting applications for the said examination. The respondents-institute, namely, the Indian Council of Agricultural Research (ICAR), has a number of research institutes located all over the country and the aforesaid examination was conducted to fill up vacancies in respect of institutes which are either located in remote difficult areas or less preferred institutes, as stated by the respondents.

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This is evident from the fact that the location of the various institutes are in remote and difficult places and hilly areas and also in the several places in the North East and Port Blair etc. Applicant was selected taking into account the discipline for which she had applied. She was selected for the Central Potato Research Institute (CPRI), Shimla, where 7 vacancies were notified. The respondents offered her appointment by their O.M. dated 18.1.1995 posting her to the CPRI, Shimla. The case of the applicant unfolds itself from now on. While accepting the offer of appointment, she represented for a posting in Delhi on the ground that her husband was employed in Delhi in a Public Sector Undertaking and that she had to look after her father, who is a retired Civil Servant and two of her small children and in the meanwhile prayed for extension of time for joining the training at Hyderabad. The applicant was granted extension of time for joining the training at Hyderabad and ultimately, she joined the training programme and completed her training after which she was required to join at CPRI, Shimla on 1.7.1996. Instead of joining at Shimla, she applied for leave on medical grounds. She was required to produce medical certificates and she was informed that her case for transfer to Delhi on grounds of her husband being posted in Delhi would be considered provided she completed the mandatory period of 2 years of probation at CPRI, Shimla.

2. Applicant has prayed for quashing the advertisement of the aforesaid examination insofar as it relates to the appointment to the ARS to the specific institutes under the respondents and to quash the impugned

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orders of 9.4.1997, whereby the applicant was directed to join at CPRI, Shimla upto 23.4.97. She has also prayed for a direction to appoint her at Indian Agricultural Research Institute, New Delhi instead of at Shimla.

3. The respondents have averred that the applicant applied for the post knowing fully well that she will be liable to be posted in one of the ICAR institutes, notified in the advertisement. She was posted to CPRI, Shimla on 18.1.1995. On consideration for her case, she was even allowed to join training straightaway at Hyderabad instead of first joining at CPRI, Shimla and then proceeding to Hyderabad for training later on. After completion of the training also, she never joined the post at CPRI, Shimla but instead, has been unauthorisedly absenting herself and refusing the orders of the respondents directing her to join at CPRI, Shimla by the due date. The respondents also aver that the ARS entails all-India transfer liability and the respondents have been very considerate in the matter of transfer of Scientists particularly when it involves posting of Scientists, whose spouses are also employed. Although the normal tenure in the place of posting is from 5 to 8 years, the respondents have already relaxed the period of stay to 2 years in the place of posting from 5-8 years to 2 years so as to enable to keep the married and employed couple at one place as far as possible. The respondents submit that the applicant's prayer for posting at Delhi is against the spirit of ARS which has all India transfer liability and they have asserted that sufficient research facilities are available at CPRI, Shimla. They have

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also contested the averment of the applicant that the posting of candidates at any specified centres as mentioned in the advertisement, is contrary to policy of ARS. On the other hand, they assert that vacancies in the different institutes of the organisation have also to be filled as an administrative measure as otherwise, the research activities of these institutes at various centres would suffer.

2. 4. I have heard the learned counsel for the parties and have perused the record.

5. The learned counsel for the applicant argued that the applicant had very genuine grounds for not being able to join at Shimla. He stated that respondents have neither before the aforesaid examination nor after the aforesaid examination in 1992 ever recruited against the centre specific vacancies. He argued that this was not in consonance with the general policy of recruitment of Scientists to ARS and on this account, could not restrict the Scientists in the field of Entomology as the applicant, only to the institutes prescribed, and the applicant can be posted in any other institute wherever vacancies are available. He also pointed out that the respondents themselves have accommodated in a few cases the request of the candidates for transfer to the places where their spouses are working. By a Miscellaneous Application the applicant has cited a few instances of such requests having been met by the respondents. The counsel argued that in the light of this position, the respondents cannot possibly discriminate against the applicant.

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6. It is an admitted position that the applicant though offered an appointment in CPRI, Shimla had not joined that post ever since she completed her training in June, 1996. After considering her representations, she was finally directed to join at CPRI, Shimla by 23.4.1997. The offer of appointment was made to her on 18.1.1995. She was allowed the concessional treatment of directly joining the training at Hyderabad and was also given further extension of time to join her post upto 23rd April, 1997. The applicant, instead of complying with the aforesaid order, had approached this Tribunal and filed this application in September, 1997, i.e., almost after 4.1/2 months from the date by which she was required to join at her place of posting. As the matter is pending in the Tribunal, apparently, the respondents have not taken any precipitate action against the applicant and no interim order was also granted to the applicant by the Tribunal. In the facts and circumstances of the case, prima facie, I am of the view that the respondents have shown sufficient indulgence to the applicant taking into account her initial medical condition and also the other facts and circumstances of the case. The applicant, having accepted the appointment as per the notified advertisement in the discipline which she has offered, cannot complain that the policy of Agricultural Research Service Recruitment does not permit centre-specific recruitment. In fact, the applicant has not produced any material to support her contention. Her objection was that either in earlier recruitment or later recruitment, there was no centre-specific recruitment. This does not, however, take away the right of respondents to recruit in centres where vacancies exist. It is a fact that

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the respondents have institutes all over the country in various disciplines and in administrative exigency, the respondents have to fill up various vacancies in various disciplines from time to time and the entire recruitment to the ARS has to be viewed in this context. If the applicant has been so particular about her posting in Delhi, she should not have offered herself as a candidate for the said examination in the discipline concerned where vacancies notified were in CPRI, Shimla. It is pertinent to point out that the centres notified by the advertisement of Combined Competitive Examination, 1992 the ICAR New Delhi or any of its units in Delhi are not notified. It is, therefore, clear that the respondents while posting the applicant as per the discipline she had offered in the examination at the place where the vacancies were available for the discipline concerned, cannot be said to have acted in an arbitrary manner. The fact that in certain cases respondents have accommodated the request of certain recruits and transferred them, does not by itself prove any discriminatory treatment. The respondents have explained in the reply to the MA the circumstances under which in some of those cases, the requests for transfers were granted. As pointed out by the learned counsel for the respondents even in such cases, the transfer has been limited only within the notified centres and not to any other place.

7. Applicant is an aspirant to a Class-I (Group-A) post of ARS. She cannot be ignorant of the fact that entering the service entails transfer liability. Aspiration to join such a service has necessarily to be matched by strength and courage to face the rigours involved in such transfers and the

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challenges that may arise in the wake of such transfers. Having offered herself as a candidate for the specific discipline and the centre where vacancies are notified in the said discipline, she cannot contest the general policy of recruitment of Agricultural Research Scientists in various centres according to the discipline where vacancies arise. As stated earlier, the respondents have shown utmost consideration to the applicant.

8. In the conspectus of the above discussion, there is no ground for any interference with the impugned order of the respondents and for giving any direction to the respondents. The application has no merit and is accordingly rejected. There shall be no order as to costs.


(K. MUTHUKUMAR)
MEMBER (A)

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