

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A. No.416/94

(2)

New Delhi, dated the 1th March, 1994.

Hon'ble Sh.N.V.Krishnan, Vice Chairman(A)  
Hon'ble Sh. B.S. Hegde, Member(J)

Shri D.C.Uprety,  
Senior Scientist,  
Division of Plant Physiology,  
I.A.R.I.  
Pusa Campus, N/Delhi

.. Applicant

(By Advocate Sh.K.K.Rai )

Versus

1. Indian Council of Agricultural Research, through its Secy., Krish Bhawan, New Delhi
2. Indian Agricultural Research Institute through its Director Pusa Campus, N/Delhi
3. Agricultural Scientists Recruitment Board through its Chairman, Krish Anusandhan Bhawan, Pusa., New Delhi
4. Dr.K.C.Bansal, Scientist(Selection Grade) Division of Plant Physiology, I.A.R.I.Pusa Campus, New Delhi

... Respondents

ORDER(ORAL)

(Hon'ble Sh.N.V.Krishnan, Vice Chairman(A))

We have heard the learned counsel for the applicant. It is stated that the respondent No 4 has been called for interview by the 3rd respondent i.e. Agriculture

(V)

(3)

Scientists Recruitment Board for considering  
him for the post of Principal Scientist. The  
advertisement (Ann.1) issued in this behalf  
specifies that one of the essential qualification  
is that the candidate must have 10 years of  
experience of research teaching/extension education  
provided that atleast three years is as a senior  
scientist or in an equivalent grade. The  
allegation is that 4th respondent does not have  
the last qualification i.e. 3 years as a senior  
scientist or in an equivalent grade and yet he  
has been called for interview. In the circumstances,  
the applicant has prayed for a declaration that  
the candidature of the respondent No.4 is invalid  
and to quash the interview held on 31.1.1994 for  
the post of Principal Scientists and to direct the  
respondents to hold fresh interview after deleting  
the respondent No.4.

2. We have heard the learned counsel for the  
applicant. He states that in this regard, he has  
already made representation to the 1st respondent  
i.e. I.C.A.R. and the Minister of Agriculture on  
23.2.1994 (Ann.A. V). He states that as the fourth  
V

(A)

respondent does not have the qualifications, he ought not to have been called for interview at all and, therefore, requests the prayer made in the application be allowed.

3. He relies for this prayer on the decision of the Supreme Court in District Collector and Chairman Vizianagram V/s M.Tripura Sundari Devi JT Vol.2 1990(SC) 169 Para 6 of the judgement stated to be relevant is reproduced below:-

"It must further be realised by all concerned that when an advertisement mentions a particular qualification and an appointment is made in disregard of the same, it is not a matter only between the appointing authority and the appointee concerned. The aggrieved are all those who had similar or even better qualifications than the appointee or appointees but who had not applied for the post because they did not possess the qualifications mentioned in the advertisement. It amounts to a fraud on public to appoint persons with inferior qualifications in such circumstances unless it is clearly stated that the qualifications are relaxable. No courts should be a party to the perpetuation of the fraudulent practice. We are afraid that the Tribunal lost sight of this fact."

4. We are of the view, that no cause of action has yet arisen in this case. A cause of action would arise, only if the fourth respondent, allegedly not qualified for the post, is nevertheless, selected by the Respondents No.1 & 3 and appointed as a Principal Scientist. The applicant has already brought to the notice of the concerned authority the deficiencies

(5)

in the qualifications of the fourth respondent which would render him ineligible for appointment in terms of the eligibility conditions notified in this advertisement. It is only when, in disregard of the alleged lack of qualifications the fourth respondent is appointed that the applicant can, have grievance. The decision of the Supreme Court referred to above is not relevant in the present case because that was a case where, by mistake, the respondent was appointed though he did not have the qualifications and the authorities rectified the mistake. In the circumstances, this O.A. is dismissed at the admission stage. This will not stand in the way of the applicant seeking any remedy, in case, he is aggrieved by any appointment made in pursuance of the selection.

B.S. Hegde  
(B.S. Hegde)  
Member(J)

N.V.Krishnan  
1.3.94  
(N.V.Krishnan)  
Vice Chairman(A)

sk