

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.,
Krishi Bhawan, New Delhi
2. Indian Agricultural Research
Institute through its Director
Pusa Campus, N/Delhi
3. Agricultural Scientists Recruitment
Board
through its Chairman,
Krishi 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

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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

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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 Vizianagaram 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

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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)
Member(J)


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

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