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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI

O.A. No. 1680/94

New Delhi : November 10, 1994.

HON'BLE MR. S.R. ADIGE, MEMBER(A)
HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER(J)

1. Suraj Singh,
s/o Shri Pitam Singh,
aged about 49 years,
r/o 12/9, Saket Block,
Mandavali,
Fazalpur,
Delhi-110094.
2. A.K.Tewari,
s/o Shri B.K.Tewari,
aged about 31 years,
r/o Quarter No.201, Sector 1,
R.K.Puram, New Delhi -110022,
3. Balram Singh,
r/o Shri Karodi Singh,
aged about 30 $\frac{1}{2}$ years,
r/o: C-102, Inderpuri,
New Delhi-110012.
4. Arun Kumar,
s/o Shri S.S.Malik,
aged about 34 years,
r/o A-450, Minto Road,
New Delhi- 110002.

.....Applicants.

By Shri B.B.Rawal, Advocate.

Versus

1. Union of India,
through the Secretary,
Ministry of Agriculture,
Govt. of India,
Krishi Bhawan, New Delhi.
2. The Secretary,
Department of Personnel and Training,
Ministry of Personnel, Public Girevances and Pension,
Govt. of India,
North Block,
New Delhi.
3. The Secretary,
Union Public Service Commission,
Dholpur House,
Shah Jehan Road,
New Delhi -110011.
4. Smt. Pratima Dayal,
former Joint Secretary(Extension),
Department of Agriculture and
Cooperation,
Ministry of Agriculture,
Krishi Bhawan, New Delhi

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5. Smt. Urmil Bhambri,
Employed as Assistant Extension Officer(AEO),
Directorate of Extension,
Department of Agriculture and Cooperation,
Ministry of Agriculture,
Government of India,

Krishi Vistar Bhawan,
IASRI, Campus,
Pusa,
New Delhi - 110012

.....Respondents.

By Advocate Shri V.S.R.Krishna.

JUDGMENT

By Hon'ble Mr.S.R.Adige, Member(A)

In this application, Shri Suraj Singh and three others have impugned the amendment to the recruitment rules for the post of Extension Officer in the Ministry of Agriculture (Department of Agriculture & Cooperation), Govt. of India, which, according to them, are likely to be notified at any moment. This application came up for hearing on 31.10.94 on the prayer for interim relief to restrain the respondents from notifying the amendments, pending disposal of the O.A. On that date, as hearing was taken up, counsel for both the parties agreed that the matter may be fully heard and disposed of. Accordingly, after giving the this matter full hearing, /O.A. is being disposed of by this judgment.

2. Out of the four applicants, three are Assistant Extension Officers, and one Senior Technical Assistant in Directorate of Extension, Department of Agriculture & Cooperation, Ministry of Agriculture. Placed below are the extracts from the Chart (Annexure-A1) filed by the applicants, showing the ladder of promotion upto the level of Director(Extension TRG):-

Director
(Extn. TRG)

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Joint Director (Women Programme) Joint Director (Extn) Joint Director (EXTN) Joint Director (EXTN) Joint Director (EXTN)

Senior Home Economist
(SHE)

SENIOR EXTENSION OFFICER (SEO)

EXTENSION OFFICER (EO)

REG. HOME ECO (RHE) REG. HOME ECO. (RHE) REG. HOME ECO. (RHE)

SENIOR RESEARCH ASSTT.
(SRA)

(Now Abolished)

(Economics Quali.)

Tech. Asstt.
(Economic)

LDC/UDC

(with Eco. Qualification)

→ SUPERINTENDENT

NOTE: RHE = EXT. Officer (Pay scale Rs.2200-4000/-)

SRA = Asstt. EXT. Officer (Pay scale Rs.1640-2900/-)

The contents of this chart have not been disputed by the respondents. Shortly stated, prior to the proposed amendments to the recruitment rules, the post of Extension Officer was to be filled 75% by promotion, failing which by direct recruitment and 25% by direct recruitment. This proportion is now to be changed to $33\frac{1}{3}\%$ by promotion, failing which by direct recruitment and $66\frac{2}{3}\%$ by direct

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recruitment. The second part of the amendment proposal is in respect of not making the educational qualification (i.e., a decree in Agriculture) a necessary qualification for promotion, and instead raising the minimum qualifying service for Asstt. Extension Officer for promotion as Extension Officer from five years to seven years.

3. The applicants alleged that these amendments are being made in the recruitment rules, not with the public interest in mind, but only to favour respondent No.5 who is a B.Sc (Home Science) and joined the department as a Technical Asstt. on 4.1.65 and is presently officiating as Extension Officer (Farm Women, Training Unit) on adhoc basis. It is averred that promotion avenues for the post of Agricultural Graduates/Post Graduates in the line of Assistant Extension Officer/Extension Officer are already few and far between and if the compulsory educational qualification of a degree in Agriculture is removed thereby allowing respondent No.5 also to compete for promotion to the post of Extension Officer, the promotion prospects of the applicants will further recede. It is further alleged that the respondent No.5 has her own channel of promotion in ^{the} Home-Science Stream, and she could always be accommodated as a Senior Research Asstt., the post which has now been abolished and which is in the feeder cadre for the post of Regional Home Economist with Home-Science qualification. The applicants have argued that the D.O. letter dated

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11.2.92 written by respondent No.4 to the UPSC on the question of amending the recruitment rules (Annexure-B) contained various inaccuracies and distortions. It refers to discussions held in 1985, 1987 and 1990 but gives neither a gist of the same, nor indicates the level at which it was held or a detailed proposal was submitted. It states that the amendments have become necessary because of the increase in the number of posts of Extension Officer, but the applicants state that no such increase had taken place. The letter refers to the post of feeder grades of Asstt. Extension Officer and Youth Organiser(Male) but the post of Youth Organiser(Male) has since been abolished. The letter further states that these amendments have been necessitated to provide for an Asstt. Extension Officer and a Youth Organiser (Male), both of whom have to retire in 1997, without mentioning that the post of Youth Organiser has since been abolished and the incumbent of the Youth Organiser(Male) has left the Organisation, and it again allegedly distorts the fact that the respondent No.5 was recruited in 1973-74 when actually she was recruited as Technical Assistant on 4.1.65 and then she was promoted as Asstt. Extension Officer. It is urged that the posts of Asstt. Extension Officers are themselves promotion post from lower category and it is, therefore, incorrect to say that their incumbents will not get a single promotion in their career. Further more, it is averred that in this letter dated 11.2.92, it has

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incorrectly been stated that the D.O.P.T's approval had been obtained, whereas no approval had been obtained. Further more, it is stated that the said D.O.T's letter does not contain any detailed justification for proposed amendments and shows uncanny haste to settle the issue in favour of the respondent No.5.

4. The applicants have averred that they had represented to the authorities against the proposed amendments on different dates, but no action was taken thereon. It is stated that representations on their behalf were also sent by various other highly placed personalities, but inspite of that the respondents have gone a-head with a proposed amendment and deliberately failed to hold DPC meeting to fill the vacant post of Extension Officers till the amendment to the recruitment rules is pushed through to favour respondent No.5. In this connection, DP & T's O.M. dated 17.11.86 has been referred to, whereby the postponement of DPC on the ground that the recruitment rules are under revision/amendment has been deprecated. Further more, the applicants alleged that the proposed amendments in the recruitment rules violates the DP & T's guidelines dated 22.5.79 for framing/amending/relaxing the recruitment rules, which provide that while educational qualifications are not generally insisted upon in promotion to non-technical post, they should be insisted upon for promotion to Scientific/technical posts.

5. It has been urged that the proposed

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amendment to succeed has to confirm the two cardinal principles viz: i) intelligible differentia; ii) nexus with the objective to be achieved, and only then is it free from the vice of arbitrariness, and unreasonableness, but it is alleged that the proposed amendment satisfies neither tests and is, therefore, malafide, arbitrary, unreasonable and hence violative of Articles 14 and 16 of the Constitution and is, therefore, fit to be struck-down.

6. The respondents in their reply have contested the O.A. and have stated that the proposal for amending the recruitment rules was necessitated because the number of posts of Extension Officer increased from 4 to 8 whereas the number of posts in feeder grade (Asstt. Extension Officer-9 and Youth Organizer (Male)-1) remains the same. In order to be in conformity with D.P & T's instructions on framing/ amending the recruitment rules which provide that the feeder grade should be 3 to 5 times the number of sanctioned posts in the higher grade, it was proposed to change the proportion between the direct recruits and promotees and opportunity was also taken to effect changes in educational requirements for the promotees, by doing away with the compulsory qualification a degree in Agriculture to enable Asstt. Extension Officers from Economics and Home Science Streams also to be promoted as Extension Officers. To ensure that there is no fall in standards, and at the same time their long experience is fully utilised, the requirement of five years' service as Asstt. Extension Officer for promotion as

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Extension Officer, has been increased to seven years' service.

7. We have heard Shri B.B.Rawal for the applicants and Shri V.S.R. Krishna, for the respondents at considerable length. We have also perused the materials on record and considered this matter very carefully.

8. From a perusal of the Chart in Paragraph 3 above, it is clear that the recruitment rules as they stand at present prior to the proposed amendments, block the promotions of Asstt. Extension Officers, ^{those} other than/who possess a degree in Agriculture to the post of Extension Officer. This in fact means that equals are being treated unequally, which itself is discriminatory and, therefore, violative of Articles 14 and 16 of the Constitution. The removal of the requirement of a degree in Agriculture as an essential qualification for promotion from Asstt. Extension Officers to Extension Officers, means that the Asstt. Extension Officers in all three streams viz. Economics, Agriculture and Home-Science have equal channel for consideration for promotion as Extension Officers which is fully in consonance with Articles 14 and 16 of the Constitution, apart from providing a larger pool of officers for consideration for promotion, now that the number of the posts of Extension Officers have increased. Shri Rawal has vehemently argued that these amendments are being brought about only /to favour respondent No.5. However, we are unable

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to accept this contention, because we note that in the O.A. itself, the applicants have admitted that this proposal, which was proposed by the Ministry of Agriculture, had been approved by the D.P.& T and cleared by the UPSC and sent back to the Ministry of Agriculture which was again approved by the D.P & T. This entire process was not completed in a month or two, which might have been the case if the objective had been to favour a particular individual but has taken a number of years, and ^{the proposal} had been passed through so many departments and Organisations and different levels in each department/Organisation. The allegation that it was motivated purely for benefiting a single individual, therefore, has no merit. No doubt, in the letter dated 11.2.92, there is an indication that one of the reasons for bringing out these amendments was also to make certain persons eligible for promotions who have not got any promotion in their entire career, but merely on the basis of this sentence, to state that the entire exercise of amending the recruitment rules is motivated by malafide, and has no measure of public interest, cannot be accepted. If the rule making authority is of the view that the amendment is necessary in the administrative and public interest, it is not the province of the court to interfere, and merely because an individual or set of individuals will get some benefit as a result of the proposed amendments, it cannot be said that these amendments are being brought out only to favour them and are thus malafide. In V.K.Sood Vs. Secretary, Civil Aviation

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Civil Appeal No.2849/93, decided by the Hon'ble Supreme Court on 14.5.93, their Lordships have held that

"In the exercise of the rule making power, the President or authorised person is entitled to prescribe method of recruitment, qualifications, both educational as well as technical, for appointment or conditions of service to an office or a post under the State. The rules thus having been made in exercise of the power under proviso to Article 309 of the Constitution being statutory cannot be impeached on the ground that the authorities have prescribed tailor-made qualifications to suit the stated individuals whose names have been mentioned in the appeal. Suffice it to state that it is settled law that no motives can be attributed to the legislature in making of the law."

In the same judgment, their Lordships have also held that

"it is for the rule making authority, which has the assistance of the experts etc. or the legislature to regulate the matter, prescribe the qualifications etc. This is not the province of the Court to trench into, and prescribe qualifications in particular when the matters are of a technical nature."

9. During hearing, Shri Rawal has argued that respondent No.5 is actually from the Home-Science Stream and should go back to that discipline and could be accommodated as a Senior Research Assistant, a post which is now abolished and used to form feeder cadre for the post of Home Economist. He has also averred that it is not a fact that the incumbents to the posts of Asstt. Extension Officer other than those in the Agriculture Stream, have not received any promotions, as these posts are themselves promotional posts. Suffice it to say, the question whether respondent No.5 should continue as Asstt.

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Extension Officer or go back to her own Home-Science stream, is a matter entirely the province of the departmental authorities. The applicants admit that she was employed as Asstt. Extension Officer and according to the recruitment rules as they stand at present, the promotions to the Asstt. Extension Officers other than those in the Agriculture stream are blocked because of a degree in Agriculture being a necessary qualification. The question is not whether the incumbents to the post of Asstt. Extension Officers have reached there by virtue of promotion or not but whether they have a further chance to rise in service.

There are/catena of decisions wherein it has been held that for enriching performance, developing motivation, and maintaining morale, every Govt. servant should have the opportunity for being considered for promotion, and without doubt the Asstt. Extension Officers other than those having a decree in Agriculture would become de-motivated when they find that their promotions beyond the level of Asstt. Extension Officers are blocked, while their colleagues having/^{a degree in} Agriculture are being considered for promotion as Extension Officers. It is also clear that consequent to the increase in number of posts of Extension Officers, the respondents through the proposed amendments to the recruitment rules now seek to widen the pool of officers for consideration for promotion to seek greater talent.

10, During hearing, Shri Rawal has also invited our attention to D.O.No.10-14/93-Estt. (I)

dated September, 1994, issued by the Director of Administration, Directorate of Extension, (Department of Agriculture & Cooperation), Ministry of Agriculture which is taken on record. This letter states that for the entry point of Technical Assistant, a Graduate degree in Agriculture (Extension) is necessary and similarly for the post of Extension Officers and above, a B.Sc degree in Agriculture (Extension) shall also be necessary for all direct recruits (Emphasis supplied). This letter, however, prescribes a degree in Agriculture (Extension) only for direct recruits and also does not help the applicants.

11. Before concluding , one last point may be touched upon. According to the applicants' own admission, the amended recruitment rules have not yet been notified . In O.A.No.826/93 : Shri A.K. Banerjee Vs. UOI & others' arising out of the same subject matter, viz. the amendment to recruitment rules, for the post of Extension Officers in the Directorate of Extension, the Tribunal in its order dated 20.4.93, has held that the applicants could not be aggrieved until the rules are amended and nothing could prevent the respondents from considering the amendments for whatever by the reason.

12. Viewed at from any angle, there are no good grounds to interfere in this matter and

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as the proposed amendments have, according to the applicants themselves, received the approval of the DPAT as well as the UPSC, it cannot be said that these amendments violate their guidelines or instructions. This application, therefore, fails and is dismissed. ~~No costs.~~ ^{The intimation} orders are hereby vacated. No costs.

Lakshmi Swaminathan
(LAKSHMI SWAMINATHAN)
MEMBER (J)

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(S.R. ADIGE)
MEMBER (A)

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