

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

O.A. No. 118/89  
T.A. No.

198

DATE OF DECISION 17-2-1989.

Smt. Jitendera Gauba

Petitioner

In person

Advocate for the Petitioner(s)

Versus

UPSC & Anr.

Respondent

Shri N.S. Mehta, Sr. Standing

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. Justice K.S. Puttaswamy, Vice-Chairman (J)

The Hon'ble Mr. V.S. Bhir, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal?

Yes.  
Yes.  
No  
Yes

MGIPRRND-12 CAT/86-3-12-86-15,000

V.S. Bhir  
(V.S. Bhir)  
Member (A)

K.S. Puttaswamy  
(K.S. Puttaswamy)  
Vice-Chairman.

17.2.1989.

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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH NEW DELHI.

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DATE OF DECISION: 17.2.1989.

Regn. No. O.A. 118/89.

Mrs. Jitendra Gauba     ...     Applicant  
Vs.

UPSC & Anr.     ...     Respondents.

CORAM:

Hon'ble Mr. Justice K.S. Puttaswamy, Vice-Chairman (J)

Hon'ble Mr. V.S. Bhir, Administrative Member.

Applicant:     In person.

For the respondents:     Shri N.S. Mehta, Sr. Standing Counsel.

JUDGMENT.

(pronounced by Hon'ble Mr. Justice K.S. Puttaswamy).

This is an application made by the applicant under Section 19 of the Administrative Tribunals Act, 1985 (Act.).

2. Mrs. Jitendera Gauba, the applicant, possessing the educational qualifications of Bachelor of Arts and Bachelor of Laws and a Diploma in Corporate Law, enrolled herself as an Advocate under the Advocates Act in February, 1981 and was practising as an Advocate from the date of her enrolment. She joined as Litigation Inspector (Inspector) in the Delhi Administration on 27.9.1983 and has been working in that capacity ever since then.

3. In response to advertisement No. 15 item No. 10 dated 9.4.1988 issued by the Union Public Service Commission, New Delhi, (UPSC), for the posts of Assistant (Legal) existing in the Department of Legal

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Affairs, Ministry of Law and Justice, the applicant applied to the UPSC with the necessary testimonials before the closing date for receipt of the applications. In due course, the UPSC called for interview several other candidates who had applied for the posts and not the applicant. She approached the UPSC to call her also for interview, but since the UPSC did not accede to that request, she approached this Tribunal on 19.1.1989 for appropriate reliefs.


4. On 19.1.1989, this Tribunal admitted the application and made an interim order not to declare the results of the selection already made, which interim order is continuing ever since then.

5. Mrs. Jitendera Gauba is present in person and has argued her case. Shri N.S. Mehta, learned Sr. Standing Counsel has appeared for the respondents.

6. Mrs. Jitendera Gauba contends that she possesses every one of the essential qualifications stipulated in the advertisement issued by the UPSC and that her application being in order, the UPSC was bound to interview her and then decide her selection with due regard to her performance vis-a-vis the interview of other eligible candidates.

In support of her contention, the applicant strongly relies on a judgment of a Division Bench of the Andhra Pradesh High Court in the Union of India Vs. Ch. Purna Chandra Rao, 1975 Lab & I.C. 630.

7. In the advertisement issued, the UPSC had specified certain qualifications as 'essential qualification' to be eligible for consideration of applications to the post advertised by it. On the details furnished by the applicant, the correctness of which is also not disputed by the respondents, the applicant appears to possess the




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necessary essential qualifications stipulated for the post. Shri Mehta, in our opinion, very rightly did not dispute this position.

8. When the applicant possessed the essential qualifications prescribed for the post, she should have normally been called for interview. Even this position, Shri Mehta rightly, does not dispute. But Shri Mehta producing the relevant records of the UPSC, has pointed out that since there were as many as 385 applications for 11 posts consisting of 8 general, 2 S.C., 1 S.T., the UPSC decided to short-list the applications to a reasonable number and interview only those that fell within the short-listed category. In order to shortlist the applications, the UPSC adopted two criteria, namely (i) candidates having 4 years or more experience as a legal practitioner, (2) candidates having 6 years or more experience in Government or private service and such of those who do not satisfy those criteria, were eliminated. In that process, the applicant, who did not satisfy either of the twin criteria, was not called for interview.

9. We have carefully perused the papers of the UPSC placed before us. We find that the applicant has not been called for interview, as she did not satisfy either of the twin criteria and not on any other ground. We may, at this stage, itself notice that the UPSC had also determined that the twin criteria should not be combined and should be applied in its strict rigour without combining them in favour of any applicant before it, including the applicant before us and on the application of that principle, it had not called the applicant for interview.



10. We have also shown the relevant papers leading to the short-listing of the applications, the criteria adopted and the reasons on which the applicant was also not called for the interview, to the applicant. We must now examine whether the twin criteria evolved by the UPSC and not combining the twin criteria in favour of anyone, is well founded or not.

11. In the rules of recruitment and the advertisement which closely follow the rules of recruitment, certain minimum educational qualifications like two years experience at the bar or three years service in a Government or private organization, have been stipulated as the minimum educational qualifications for the post. But having regard to large number of candidates for the very limited number of posts, namely, 11 posts, the UPSC had evolved and adopted the twin criteria and has eliminated as many as 283 candidates including the applicant from interview. For 11 posts, the UPSC adopting the twin criteria, has also called as many as 102 candidates for interview and has completed their interview also. In the normal circumstances, even the results of selection would have been declared but the same has not been done in obedience to the interim orders passed by the Tribunal.

12. What was really done by the UPSC was to make a preliminary selection or an initial selection of all the eligible candidates. In making that preliminary selection, the UPSC had evolved and adopted certain criteria uniformly to all the applicants. In calling the 102 candidates for interview or eliminating 283 from interview, the UPSC had not acted arbitrarily or had not picked up anyone on fanciful or irrelevant considerations. The UPSC has evolved a criteria, and then carefully scrutinised all the valid applications made before it and eliminated as many as 283 candidates including the applicant, as they

did not satisfy the twin criteria evolved by it.

From this, it is abundantly clear that the UPSC had not eliminated the applicant on any fanciful reason.

13. Mrs. Jitendera Gauba did not rightly contend that the UPSC had no power or competence to evolve the criteria or shortlist the applications when there were large number of applications as in the present case. We are also of the view that in a situation like the one or where there are a large number of applications to a small number of posts, it is perfectly legitimate for the UPSC to evolve further relevant criteria, examine the applications with reference to the relevant criteria and confine the process of selection to a reasonable number of candidates. If such a process is not done, the work of the UPSC, which is already over-burdened, will become almost impossible of performance and would lead to the failure of the system itself. From this, we have no doubt whatsoever that the UPSC was within its power in evolving the criteria.

14. Mrs. Jitendera Gauba contends that the twin criteria adopted by the UPSC, was per se illegal, irrational, arbitrary and was violative of Articles 14 and 16 of the Constitution.

15. Shri Mehta contends that the twin criteria evolved and uniformly applied was rational, sound and was not violative of Articles 14 and 16 of the Constitution.

15.-A. We have earlier noticed the twin criteria evolved and adopted uniformly by the UPSC. The twin criteria undoubtedly increases the requirements of the qualifications for the posts advertised. The twin criteria do not defeat the object of the recruitment rules. On the other hand, the twin criteria help in securing the services of candidates with far more higher qualifications than the one prescribed in the recruitment

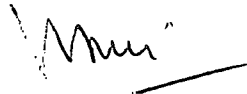
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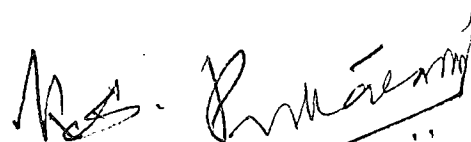
rules. If the criteria that is adopted, secures the services of better qualified candidates than that prescribed as the minimum educational qualifications in the recruitment rules, it is somewhat difficult to hold that that criteria was arbitrary, irrational or violative of Articles 14 and 16 of the Constitution. After all, the object of all public service Commissions is to secure the best men for the posts. If in securing the best men for the posts, the UPSC pre-scribes higher qualifications than the one prescribed by the recruitment rules, then this Tribunal cannot condemn those criteria as arbitrary, irrational and contravenes Articles 14 and 16 of the Constitution. We have earlier noticed that this twin criteria was evolved and adopted for the reason that an unmanageable number of persons had applied for the limited number of posts that had to be filled. In these circumstances, we find it difficult to uphold this contention of Mrs. Jitendera Gauba.

16. In Purna Chandra Rao's case (supra), Purna Chandra Rao was not called for interview for the post of Assistant Director of Census, somewhat arbitrarily without evolving and applying any criteria unlike in the present case. It is on those facts, the Andhra Pradesh High Court found that the action of the UPSC in not calling Shri Purna Chandra Rao for interview was arbitrary and violative of Articles 14 and 16 of the Constitution. But that is not the position in the present case. In the present case, the UPSC first evolved the criteria and then uniformly applied the same and eliminated as many as 283 candidates which necessarily included the applicant. From this, it follows that the ratio in Purna Chandra Rao's case does not bear on the point and assist the applicant.

17. How the UPSC has made selection for the other posts or the principles adopted by the UPSC or other authorities for other posts, on which also some submissions were made by the applicant, are not really relevant for our purpose.

18. On the foregoing discussion, we hold that this application is liable to be dismissed. We, therefore, dismiss the application. But in the circumstances, we direct the parties to bear their own costs.

  
(V.S. Bhiri)  
Mem-ber (A)

  
(K.S. Puttaswamy)  
Vice-Chairman. 17/2/1989

17.2.1989.