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CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH.

O.A. NO. 2336/89

New Delhi this the 9th day of May, 1994.

Shri Justice V.S. Malimath, Chairman.

Shri P.T. Thiruvengadam, Member(A).

C.K. Sharma
S/o Shri Shiv Charan Sharma
R/o 5/4, ITI Shahdara Campus,
Vivek Vihar,
Delhi.

... Petitioner.

None for the
petitioner.

Versus

1. Lt. Governor of Delhi,
Raj Bhawan, Raj Niwas Marg,
Delhi Administration,
Delhi.
2. Secretary,
UPSC,
Dhaulpur House,
Shah Jahan Road,
New Delhi.
3. Secretary,
Department of Training and
Technical Education,
Rouse Avenue,
New Delhi.
4. Shri S.K. Mishra,
Principal,
ITI Malviya Nagar,
New Delhi-110017.
5. Shri G.C. Gandeganwalia,
Principal, B.T.C. Pusa,
New Delhi.
6. Shri Ramnath Ram,
Principal,
ITI Narela, at
Harijan Sewak Samaj Building,
Kingsway Camp,
Delhi.

... Respondents.

None for the respondents.

ORDER (ORAL)

Shri Justice V.S. Malimath

✓ None appeared either for the petitioner or for

the respondents. This being an old matter, we consider it proper to look into the records and dispose of the case on merits.

2. The petitioner on his being selected by the Union Public Service Commission joined the post of Principal/ Training Evaluation Officer/Senior Surveyor in the scale of Rs.700-1300 with effect from 4.8.1983. He has filed this application when he was working as Principal, ITI, Shahdara, Delhi. The recruitment rules for the post of Assistant Director were revised in the year 1989, w.e.f. 26.7.1989. Two important changes have been brought about in the existing pattern of the 1981 rules. No specific educational qualifications as such are prescribed by the 1989 rules whereas educational qualifications were prescribed for promotion under the 1981 rules. Under the 1981 rules, five years service in the grade was the eligibility service whereas under the 1989 rules five year's service in the post in the feeder cadre is required. Obviously, the petitioner was qualified under the 1981 rules and was not qualified under the 1989 rules. It is in this background that he has approached the Tribunal wherein he has prayed that the rules notified by Notification dated 26.7.1989 be kept in abeyance till the petitioner is promoted to the post of Assistant Director in accordance with the old rules of 1981. Alternatively, he has prayed for striking down the 1989 rules as being discriminatory, arbitrary, retrogressive and without any principle of justice.

3. We fail to see how statutory rules framed can be kept in abeyance for the benefit of the petitioner until he stands promoted under the old rules. Once the rules come into force, they hold the field and have to be operated with effect from the date of coming into force of the rules. Admittedly, no retrospective effect has been given to ^{the} 1989 rules.

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Hence, it is not possible to grant the first relief.

4. As regards the challenge to the amendment effected in 1989 rules, the petitioner asserts that they are discriminatory and violative of Articles 14 and 16 of the Constitution. We fail to see how the petitioner can complain that the amended rules are discriminatory in character. He cannot compare the old rules with the new rules to make out a case of discrimination. It is not the case of the petitioner that there is no nexus with the duties, responsibilities and functions of the promotional post with the qualifications prescribed by the amended rules. There is no such plea either. We do not find anything arbitrary in deleting the prescribed qualifications for promotion. It is a normal pattern that when a promotional avenue is made available to the feeder category not to insist on any further educational qualifications unless the possession of such qualifications has a just nexus with the duties, responsibilities and functions to be discharged of the promotional post. The petitioner has not placed any material before us to show that the qualifications that were prescribed in 1981 rules are necessary for proper discharge of the functions of the promotional post.

5. Another complaint of discrimination is in regard to prescription of the experience under the old rules. Five years experience in the grade was enough. Now, it is five years experience in the post. In our opinion, experience in the feeder post is far more relevant than experience in a particular grade. It is, therefore, not possible to say that prescription of experience in the feeder post is in any way discriminatory and violative of Articles 14 and 16 of the Constitution. Hence, it is not possible to accept the plea of the petitioner that the amended rules are discriminatory and violative of Articles 14 and 16 of the Constitution.

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6. For the reasons stated above, this petition fails and is dismissed. No costs.

P. T. Thiruvengadam

(P.T. Thiruvengadam)
Member(A)

V. S. Malimath

(V.S. Malimath)
Chairman

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