

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 1695/88
T.A. No.

198

DATE OF DECISION 24.11.1989.

Shri A.K. Belwal

Applicant (s)

In person

Advocate for the Applicant (s)

Versus

Union of India & Ors.

Respondent (s)

Shri P.P. Khurana,

Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. P.K. Kartha, Vice-Chairman (Judl.)

The Hon'ble Mr. I.K. Rasgotra, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? Yes
3. Whether their Lordships wish to see the fair copy of the Judgement? No
4. To be circulated to all Benches of the Tribunal? No

JUDGEMENT

(of the Bench delivered by Hon'ble Shri P.K. Kartha, V.C.)

The applicant, while working as Senior Research Officer in the Planning Commission, filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying that his case may be sent to the Dutch authorities "with the request to accommodate his research interests and ultimate career goal of acquiring expertise in the Economics of Public Finance in developing countries" and that his case may be forwarded for I.M.F. Course in Public Finance.

2. The case of the applicant in brief is that he had applied for a foreign training programme in the Netherlands in August, 1987 for which nominations were invited by the Planning Commission vide their letter dated 21st Aug., 1987.

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The training course pertained to financial management dealing with the basis of accelerating the regional development process through industrialisation. His application was forwarded through his Guide under whose supervision he is pursuing a course for Ph.D. in the Kanpur University to the Administration of the Planning Commission for onward transmission to the Department of Personnel and the Department of Economic Affairs for processing the same. Nothing was further heard about his application. Again, in January 1988, the Department of Personnel invited nominations for training in U.S.A. and the Netherlands. The course in U.S.A. was the I.M.F. course on Public Finance to be held at Washington and the one at Netherlands was on Financial Management. According to him, he applied for the above mentioned courses which were also sponsored by his Guide and the Planning Commission. He also made a representation to the Secretary of the Planning Commission on 16th March, 1988 in this regard. With reference to his representation, the Planning Commission informed him that the same was examined by the Department of Economic Affairs and it had not been found possible to sponsor him for Fellowship in an area unconnected with his field of studies for his Ph.D. course. It was, however, added that in the event of his getting a fellowship in a field related to his study and if the same is recommended by his Guide, it may be possible for the Department of Economic Affairs as cadre controlling authority of I.I.S., to examine such a future request.

3. The contention of the applicant is that the respondents should have forwarded his application to the authorities concerned in U.S.A. and the Netherlands supporting his candidature.

4. The case of the respondents is that there has been no offer of fellowship to the applicant. In his application, he had mentioned an amalgam of fields as the area of relevance for his research interests as follows:-

"My research interests in the field of Taxation of Informal/Unorganised Sector in India, desire to build up specialisation in Economic Taxation, informal sector, Fiscal Problems of Developing countries, Local Body Finance, Slums, Marxian and Gandhian Economics, Urbanisation Development of Tropical Agriculture and Rural Sector, Nutrition in the tropical countries, etc. The Dutch authorities may be requested to accommodate my research interest".

5. Thus, according to them, the various areas mentioned are combinations of different sub-sectors and reflect a lack of clear focus. Besides, it has also been stated that the Guide of the applicant has not recommended/endorsed his request. They have also contended that the relief sought by him is, in any case, not maintainable because this Tribunal has no jurisdiction to send his case to the Dutch authorities with a request to accommodate his research interests, etc.

6. We have heard the applicant in person and the learned counsel for the respondents. The applicant stated that he was on study leave for Ph.D. from 1.7.87 to 30.6.1989 and that thereafter, he had applied for leave

upto 30.6.1990 to complete his research for the Ph.D. and to submit his thesis. He has not alleged any mala fides on the part of the respondents.

7. The learned counsel for the respondents argued that sponsoring a candidate for a foreign fellowship is the prerogative of the Government. While doing so, the Government has to consider all the relevant aspects, including the question whether the foreign fellowship is in an area connected with the candidate's field of study for his Ph.D. course. It is also not the policy or practice of the Government to recommend candidates to foreign Governments, as has been sought by the applicant.

8. We have carefully considered the rival contentions. The basic issue is whether the applicant has any legal right to be sponsored for a foreign fellowship and whether the power of judicial review would extend to this field. In our opinion, the applicant has no legal right to be sponsored for a foreign fellowship. The Tribunal is also not competent to issue directions to the respondents in such a case. The reason is that a decision on the question whether or not a candidate may be sponsored for a foreign fellowship, is to be taken by the Government on policy considerations.

9. In this context, reference may be made to the decisions of the Calcutta High Court in Tusharkanti Mitra & Others Vs. the State of West Bengal & Others, 1975 SLJ (SN) 53. In that case, the petitioners, who were temporary employees working in the Calcutta Metropolitan Planning Organisation, applied for different posts of Calcutta Metropolitan Development Authority. They sent applications

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to their department for forwarding the same to the Calcutta Metropolitan Development Authority and advance copy of the same was also sent to the said Authority. On the basis of the advance copies, they were interviewed but their department refused to forward their applications. Hence, the petitioners filed a writ petition contending that the circular on the subject prescribes that applications of temporary employees be forwarded twice a year and that the order of refusal by the department not forwarding their applications was illegal. The Calcutta High Court observed that the circular issued by the Government had not been framed, issued or published under any statute or rules, or regulations and that it cannot have the force of a statute or rules or regulations, as contended. It was merely a circular for the guidance of the department. Since the circular had no statutory force or effect, it was held that the petitioners could neither claim any legal right on the basis thereof nor such right was created or established by the same.

10. The reasoning in the aforesaid judgement equally applies to the instant case. The respondents have taken a decision in the case of the applicant, keeping in view the policy considerations applicable to sponsoring of candidates for foreign fellowships. The Tribunal would not, normally, interfere with the wisdom of the authorities concerned unless the applicant alleges and proves that there was arbitrariness or unreasonableness in the decision so made. No material has been placed before us to indicate that the respondents proceeded in the matter arbitrarily or unreasonably. DR

11. In the facts and circumstances of the case, we see no merit in the present application and the same is dismissed. The parties will bear their own costs.

Lilavati
(I.K. Rasgotra) 24/11/87
Administrative Member

Partha
24/11/87
(P.K. Kartha)
Vice-Chairman (Judl.)