

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 1753/88 ✓ 1988
T.A. No.

DATE OF DECISION 17.11.1989

Shri Jagdev Sharma _____ Applicant (s)

Shri V.L. Madan _____ Advocate for the Applicant (s)

Versus
National Museum of Natural _____ Respondent (s)
History & Another

Smt. Raj Kumari Chopra _____ 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

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

The applicant, who is working as a Laboratory Assistant in the National Museum of Natural History which is under the Department of Environment, filed this application under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:-

- (i) Respondent No.1 (the Director of the Museum) be directed to strictly implement the panel prepared by the Selection Committee on 5.1.88 for filling up the regular vacancy of Field Collector in the said Museum.
- (ii) that he be restrained from holding another interview on 19.9.1988 for filling up the

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regular vacancy of Field Collector, despite the fact that the panel prepared on 5.1.88 has not been exhausted or implemented.

2. The pleadings in the case are complete. On 16.9.88, the Tribunal had passed an order to the effect that any promotion made will be subject to the outcome of this application. On going through the records carefully and hearing the learned counsel for both the parties, we feel that this application could be disposed of at the admission stage itself.

3. The post of one Field Collector in the pay-scale of Rs.1400-2300 was advertised in the Employment News on 24th October, 1987 for which the essential qualifications prescribed were the following:-

"(i) Pass in matriculation examination or equivalent with five years' experience in the collection and preservation of botanical or zoological specimens; or

(ii) Bachelor's degree with knowledge of
i) Plant and Animal habitats and behaviour; and
ii) biological field work."

4. The applications were to be submitted to the local/nearest Employment Exchange except the Central Employment Exchange. Departmental candidates belonging to the same ministry/department fulfilling the same qualifications, experience, etc., laid down for the post were required to apply direct to the employer and they were not required to send the same through local Employment Exchange. It was further provided that the applications of candidates would not be considered unless they were registered with the Employment Exchanges.

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5. The applicant was a departmental candidate for the said post. He had joined the service of respondent No.1 in 1973 as a Peon and was appointed as a Laboratory Assistant w.e.f. 22.2.1980. The Field Collector is the next higher post. The applicant submitted his application through proper channel and was interviewed on 5.1.1988 along with other candidates by a Selection Committee consisting of the Director of the Museum (Respondent No.1) as its Chairman, one Senior Scientist, two Scientists, and the Under Secretary of the Ministry of Environment as its Members. The applicant has stated that the Selection Committee prepared a panel of successful candidates in which one Shri John Thomas, was shown as No.1 and the applicant, as No.2 in the order of merit. The Selection Committee recommended the appointment of Mr. John Thomas. He had worked on an ad hoc basis in the post of Field Collector in 1986. He, however, left the employment. In view of this, the applicant claims that he should have been offered the post on a regular basis. According to him, respondent No.1 was inimically disposed towards him. It was, therefore, decided to hold fresh interviews on the basis of the same applications. No new advertisement was published nor any new applications invited. An interview was scheduled to be held on 19.9.1988. The applicant was not called for the said interview.

6. The respondents have stated in their counter-affidavit that the holding of the fresh interviews was necessitated because certain discrepancies were noticed in the screening of applications, particularly that of inviting certain departmental candidates for interview who did not strictly fulfil the qualifications and experience

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prescribed. The Ministry of Environment and Forests, therefore, advised respondent No.1 to fill up the post strictly adhering to the Recruitment Rules and Procedures. The shortcomings in the screening of the applications had to be rectified and fresh interviews were held. The panel of candidates recommended by the Selection Committee for the first interview was, therefore, set aside and no action was taken pursuant to the said recommendations.

7. The respondents have also stated that the post of Field Collector was to be filled up by direct recruitment and the applicant was not eligible as he did not possess the requisite experience in the field of collection work. According to the Recruitment Rules which have been reproduced in the advertisements for the post of Field Collector, the candidate should be a matriculate or equivalent with five years' experience in collection and preservation of botanical or zoological specimens or Bachelor's degree with knowledge of plant and animal habitats and behaviour and biological field work. According to them, the applicant though a matriculate, did not possess five years' experience in field work. He was, therefore, not considered eligible for being called for interview when applications were reprocessed strictly according to the Recruitment Rules.

8. We have carefully gone through the records of the case and have heard the learned counsel for both the parties. The applicant has based his claim on the recommendation made by the Selection Committee at the first selection in which he is stated to have been placed as No.2 in the merit list. It was at the instance of the Ministry of Environment and Forests of which the National Museum of Natural History is a subordinate or attached office,

that the proceedings

of the Selection Committee which initially recommended a panel, was not acted upon. The said Ministry had observed that the applications received from the Employment Exchange should have been screened more meticulously and departmental candidates who did not possess the requisite qualifications and experience, should not have been considered. They had advised to fill up the posts of Field Collector by strictly adhering to the Recruitment Rules.

9. The decision of the Ministry of Environment and Forests directing the National Museum of Natural History not to act upon the recommendations of the first Selection Committee on the grounds mentioned above, cannot be faulted. The post of Field Collector is required to be filled up by direct recruitment and only those candidates who fulfil the essential qualifications and experience, are to be considered for the purpose of selection. Since the respondents have, for good reasons, decided not to act upon the panel prepared by the first Selection Committee, the applicant could not have been appointed to the post of Field Collector merely because Mr. John Thomas who figured at the top of the merit list, had left the employment and ^{thereby} a vacancy existed in the post of Field Collector. We, therefore, reject the contention of the applicant that he should have been appointed in the post of Field Collector on the basis of the first Selection solely in view of his second position in the merit list prepared by the first Selection Committee.

10. The further question is whether the respondents acted illegally in not calling the applicant for fresh selection which was held in accordance with the Recruitment Rules. Answer to this question would depend on whether the

applicant fulfils the essential qualifications and experience prescribed for the post of Field Collector.

11. The applicant has worked in the Museum since 1973. ^{a few} He has also participated in field trips for collecting biological specimens for the Museum. He has worked as Laboratory Assistant since 1985. As regards field experience, the applicant has not produced any document to indicate that he fulfilled the same. In our opinion, the experience as Laboratory Assistant cannot be equated with experience in the collection and preservation of botanical or zoological specimens. As the respondents called for interview only those candidates who possessed the essential qualifications prescribed for selection under the Recruitment Rules, the applicant cannot make a grievance of his not being called for the same on the ground that he did not possess the essential qualifications.

12. The applicant has alleged that respondent No.1, who was the Chairman of the Selection Committee, was inimically disposed towards him on the ground that he happened to be the Secretary of Non-Gazetted Employees Staff Association of the Museum since 1987. The plea of mala fides has been denied in the counter-affidavit filed by the respondents. In our opinion, the applicant has also not substantiated the same. In fact, had respondent No.1 been inimically disposed towards the applicant, as alleged, his name would not have figured in the merit list of the first Selection Committee of which respondent No.1 was the Chairman.

Or

13. In the facts and circumstances of the case, we see no merit in the present application and the same is dismissed at the admission stage itself. There will be no order as to costs.

Subrahmanyam
(I.K. Rasgotra) 17/11/89
Administrative Member

Omvedi
17/11/89
(P.K. Kartha)
Vice-Chairman (Judl.)