

In the Central Administrative Tribunal
Principal Bench, New Delhi.

Regn. No.0A-950/88

Date: 11.10.1993

1. Shri V.K. Sharma)
2. Shri Rajiv Mangotra)
3. Shri Pitamber)... Applicants
4. Shri K.N. Choudhary)
5. Shri Karam Vir)
6. Shri P. Shaktival)

Versus

1. Union of India through
Secy., Miny. of Agri.
2. The Director General, Respondents
ICAR.
3. Secy., Agricultural
Scientists Recruit-
ment Board, N.Delhi.

For the Applicants Shri G.D. Gupta, Counsel

For the Respondents None.

CORAM: Hon'ble Mr. J.P. Sharma, Member (Judl.)
Hon'ble Mr. B.K. Singh, Member (A)

1. To be referred to the reporters or not?

(Oral) Judgement

(By Hon'ble Mr. J.P. Sharma, Member)

All the applicants were employed as Assistants in the I.C.A.R. They were direct entrants to the Cadre on various dates between February and June, 1993 and are continuing to work uninterruptedly. The next promotional post is that of Section Officer which is filled up as per the Recruitment Rules to the extent of 50 per cent by promotion on the basis of the Limited Departmental Examination, upto 25 per cent. The eligibility for taking that examination is confined to Assistants having not less than five years' continuous service in the post of Assistant and Personal Assistant on 1st January of the year in which the examination is held. It is further provided that if any person having

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five years' service as Assistant/Personal Assistant, is considered for the examination, all persons senior to them shall also be considered for appearing in the examination, irrespective of the fact whether they have full five years' service in that grade. The Recruitment Board circulated the date for examination by the letter dated 11.3.1988. All the applicants applied to take the said examination in view of the circular noted above. There were some persons who were allowed to take the examination, though they were junior to the applicants. In view of the above facts, the applicants alleged that they are also qualified and eligible for taking the aforesaid examination. The respondents did not consider this matter favourably and they filed the present application jointly on 24.5.1988 that rejection of their applications for taking the Limited Departmental Examination to be held as per the circular of March 11, 1988, be set aside as ultra vires as being arbitrary. It was further prayed that the applicants also, in the alternative, be declared eligible for appearing in the Limited Departmental Examination for promotion to the post of Section Officer as some persons junior to them, are being allowed to appear.

2. The applicants also prayed for grant of interim relief, for a direction to the respondents not to hold the examination without declaring the seniority list.

3. A notice was issued to the respondents, who filed their reply contesting the averments made in the application. The Tribunal, by its order dated 24.5.88,

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restrained the respondents from holding the examination. By subsequent order dated 6.6.1988, this order was modified to the extent that the respondents are directed to hold the examination provisionally and also allow the applicants to appear provisionally in the said examination, but the results shall not be declared.

4. The respondents, in their reply, have averred that since the applicants did not have the requisite five years' approved continuous service in the grade of Assistant on January 1, 1988, so their representation for taking the said examination was rejected. However, subsequently, when the examination was held on July 26 and 30, 1988, in view of the interim order passed by the Tribunal on June 6, 1988, the applicants were also allowed to take the examination. The respondents have also averred that they have already circulated a list of Assistants from 1.1.1976 to January, 1986 on June 17, 1988. Since the applicants did not file any objection to that seniority list, the same has become final. It is further stated that ~~juniors to the applicants~~, Shri R.D. Meena and Shri G.S. Sharma, are junior to the applicants. It is further averred that Shri H.S. Rawat and Shri R.C. Srivastava were admitted to the Limited Departmental Examination on the basis of the service rendered by them as Assistants on ad hoc basis for more than five years, and they were regularised w.e.f. 10.8.88. However, in the concluding para., the respondents have stated that the applicants have no grievance that they have not been allowed to take the examination.

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5. Subsequently, Shri K.K. Zutshi and Shri G.S. Sharma, were impleaded as respondent Nos.4 and 5 by an order in MP-681/89. Both the respondents Nos.4 and 5 moved another MP-410/89 praying that the result of the said Limited Departmental Examination of Section Officers which has been withheld from declaration by the order of June 6, 1988, be now directed to be declared by the official respondents. This MP was heard and disposed of by the Tribunal by its order dated July 18, 1989. It was directed to the respondents by this order that the results of the said examination held in pursuance of the circular of March, 1988, including those of the applicants, be declared but the results so declared, shall be subject to the outcome of the present application.

6. Since this is an old matter and the learned counsel for the applicant is present, it is decided to dispose of the application on merit, though none appears on behalf of the respondents. We have perused the counter filed by them. A perusal of the same goes to show that the respondents did not make out a case that the applicants were not eligible to take the said examination. In fact, the respondents have admitted that persons junior to the applicants were also allowed to take the examination, but qualifying that with the statement that those persons have already worked on ad hoc basis for a number of years, though they were regularised in August, 1988. However, the fact remains that the recruitment rules provided that if juniors are allowed to take the said examination, that irrespective of the bar of five years' eligibility, the seniors will


not be debarred to take the examination in that particular year. In view of this fact and that the applicants have already appeared, we do not find any further probe into the matter.

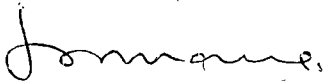
7. Though it is not known either to the learned counsel for the applicant, nor by any document on record as to whether these applicants have qualified in the said examination or not, or they have since been promoted and posted to the posts of Section Officer, in view of the nature of the controversy before us, it is not necessary to ask for those details. The application can be disposed of in the facts and circumstances of the case with the following directions:-

(a) The applicants' named above, were fully qualified to take the Departmental Limited Examination held under the circular issued by the respondents in March 11, 1988 and the examination was held on 26th and 30th July, 1988 and they shall be considered to have been duly qualified to take that examination.

(b) The applicants, like other eligible candidates in the said examination, will be entitled to all benefits of the result of the examination, according to the extant rules.

8. The application is disposed of on the above lines. No order as to costs.


(B.K. Singh)
Member(A)


(J.P. Sharma)
Member(J)