

Central Administrative Tribunal  
Principal Bench: New Delhi

OA No.1253/90

New Delhi this the 11th Day of August, 1994.

Sh. N.V. Krishnan, Vice-Chairman (A).  
Sh. C.J. Roy, Member (J)

Basudev Pakrashi,  
S/o Sh. Sachindra Chandra Pakrashi  
R/o I-1656, Chittaranjan Park,  
New Delhi.

...Applicant

(By Advocate Sh. M.Bhattacharya, though none appeared)

Versus

1. The Chief Secretary,  
Delhi Administration,  
5, Alipur Road,  
Delhi.

2. The Development Commissioner,  
Delhi Administration,  
5/9, Underhill Road,  
Delhi-110 054.

...Respondents

(By Advocate Ms. Ashoka Jain, though none appeared)

ORDER(ORAL)

Mr. N.V. Krishnan:-

Though called twice, none appeared for either of the two parties. We have, therefore, decided to peruse the records and dispose of this O.A. The applicant has not marked the Annexures Nos. of the Annexures annexed to his application, though an index has been provided. Therefore, reference is made to the page No. of the paperbook

2. The applicant is aggrieved by the order dated (Annexure P-23)  
5.4.90 of the Delhi Administration, the first respondent/ which reads as follows;-

"With reference to your representation dated 27.2.90 on the matter cited as subject I am directed to inform you that the matter was referred to the Dev. Commissioner, Delhi who has informed, that it would not be sound administrative policy to make relaxation of essential qualifications. Accordingly the

department has decided to fill up the post by transfer on deputation."

His representation dated 27.2.90 is at page-19. As that representation explains his grievance it is reproduced below:-

"With due respect I have to state that consequent on the retirement of Sh. R.B. Raizada, Warden of Fisheries I have been directed to look after the work of Warden of Fisheries w.e.f. 30.9.89. In this connection my humble submission is that I have been working in the Fisheries Unit since 1962 and I am also working as Dy. Warden of Fisheries since 1975 i.e. for the last 14 years. I possess the same educational qualification as my predecessor Sh. R.B.Raizada i.e. B.Sc(Hons) in Zoology and trained in Inland Fisheries from Central Inland Fisheries Research Institute, Barrackpore (Govt. of India) in Fisheries Admn. & Management, Delhi being as inland state training in Inland Fisheries is good enough for Delhi area. I want to add-up here that persons possessing the qualification as above are working as Deputy-Director and Joint Directors in various Fisheries unit of the state Governments.

The Recruitment Rules for Warden of Fisheries requires Associate Diploma in Fisheries Science of Bombay Institute (2 year duration) and the same was relaxed and training from Barrackpore Institute (12 month duration) was allowed by U.P.S.C. in my predecessor's case. The same relaxation may kindly be extended in my case also. Recruitment Rules allows relaxation in consultation with U.P.S.C. As for my case I have sufficient experience and at present my basic pay is Rs.3200/- (Grade of Warden of Fisheries is 3000-4500) and left with only above 10 year of service.

I would therefore request you kindly to consider my case favourably and send the same to the U.P.S.C. for relaxation of the training."

is  
It /because of the fact that this representation was not accepted that the applicant has filed this O.A. seeking a direction to the respondents to consider the applicant for appointment as a Warden of Fisheries and to refer his case to the U.P.S.C. as it is the U.P.S.C. alone which can relax at its discretion the essential qualifications.

3. The main reason for this prayer is that the question whether relaxation should be given or not is a matter for decision of the U.P.S.C. and it is its discretion which cannot be exercised by the Development Commissioner, as has been done in this case, as would be evident from the impugned order dated 5.4.90.

4. The respondents have filed a reply contesting these claims. It is stated that the applicant admittedly does not have the necessary qualifications and, therefore, instead of considering this post to be filled by promotion it has been decided to obtain applications for filling this post on deputation. A large number of applications from well qualified candidates have been received.

5. We have considered the matter. The Recruitment Rules are at page 12-13 of the paperbook. The post of Warden Fisheries is a Group 'A' gazetted non-ministerial post to be filled up by selection, both direct recruit and promotion. The posts can be filled by direct recruitment. In addition, it can also be filled up by promotion failing which by transfer on deputation and failing both again by direct recruitment. The essential educational qualification for direct recruitment is a degree in Zoology with specialisation in Fisheries Science from a recognised university or equivalent or associate diploma in Fisheries Science of the Central Institute of Fisheries Education, Bombay or equivalent. Besides this, other essential qualifications required

are practical training of 7 years and administrative experience in a responsible position. It is, however, provided that the qualifications are relaxable for direct recruits at the discretion of the U.P.S.C., in the case of candidates otherwise well qualified.

6. Educational qualifications required by direct recruits are also to be possessed by persons who are to be considered for promotion, i.e., Deputy Warden of Fishereis with 8 years service in the grade like the applicant. The selection is made by Group 'A' DPC.

7. Admittedly, the applicant does not have the stipulated educational qualifications and his request is that his case should be sent to the U.P.S.C. for considering relaxation. We notice that as far as the DPC is concerned, it has not been given powers to relax the education qualification of promotee candidates or candidates to be considered by transfer on deputation, unlike the U.P.S.C. which has been given such poers in regard to direct recruitment.

8. However, Rule 5 of the recruitment rules, which, incidentally, are framed under Article 309 of the Constitution, provide that where the Delhi Administration is of the opinion that it is necessary or expedient to do so, it may, by order, for reasons to be recorded in writing and in consultation with the U.P.S.C, relax any of the provisions of these rules with respect to any class or category of persons or posts. We are of the view that the relaxation to be given, if it is to be considered, should be in respect of a class or category of persons or posts and not in respect of an individual. The applicant's contention that the issue should be decided by

the U.P.S.C. has no basis because in the first instance, it is for Delhi Administration to consider whether it is necessary or expedient to grant relaxation, and if so, to consult the U.P.S.C. in this regard. The impugned Annexure A-3 order gives reasons why it has not been found fit to relax the qualification. The administration is of the view that it would not be a sound administrative policy.

9. Besides, we notice that there is no dearth of candidates for consideration, as a large number of applications from candidates with better qualifications have been received. In the circumstance, we do not find any merit in this O.A. and accordingly it is dismissed. No costs.

*C. J. Roy*  
(C. J. Roy)  
Member (J)

'Sanju'

*N. V. Krishnan*  
11.8.84

(N. V. Krishnan)  
Vice-Chairman