

2

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No.220/89 (Bombay Bench)

(1720/90)

Date: 20.4.95

Bhim Sain Maul .. Applicant

vs.

Union of India and others .. Respondents

Mr.BS Mainee ... for applicant

Mr.A.K.Chopra ... for respondents

COFAM

Hon'ble Mr.S.P.Mukerji, Vice Chairman
and

Hon'ble Mr.J.P.Sharma, Judicial Member

O R D E R
(Hon'ble Vice Chairman)
S.P.MUKERJI

The applicant who has been working as a Statistical Officer in the office of ^{the} Directorate of Marketing and Inspection under the Ministry of Agriculture has in this application dated 25.3.89 challenged the order dated 8.3.89 at Annexure-A.15 by which he was reverted from the post of Statistical Officer to that of Sr.Statistical Assistant and also another order of 8.3.89 by which respondent No.4 was promoted as Sr.Statistical Assistant.

2. The brief facts of the case are as follows. The applicant was initially appointed as Statistical Clerk on 8.9.56 and was promoted as Statistical Assistant and then as Sr.Stat.Assistant on 7.9.78 and was confirmed in that post on 15.5.82. He was promoted on an adhoc basis as Stat.Officer and officiated as such by periodical extensions from 10.2.83 to 9.4.85. By an order dated 1.4.85 he was reverted as Sr.Stat.Asstt. with effect from 30.6.84. At that time the Recruitment Rules provided for

only direct recruitment for the post of Stat.Officer. As a result of the representations made from the Staff Side, the Recruitment Rules were amended on 6.1.88 and it was provided that for the post of Statistical Officer, Sr.Stat.Assistant with three years of regular service in the grade and possessing a degree in Statistics or Maths (with Statistics)/Commerce/Economics with Statistics are eligible for promotion. As a result of consideration by the DPC the applicant was again promoted provisionally on 23.8.88 as Statistical Officer subject to the condition that he must produce within six months the statutory documentary proof of his passing B.A. degree in Maths with Statistics. On 6.3.89 the applicant produced documents to show that he passed the B.A.Degree in Maths 'B' course which had statistics as one of the optional subjects but he could not produce any convincing documentary proof that he had exercised option to take the Statistics as one of the optional subjects in the Maths 'B' course. The University of Punjab wherefrom he had passed the B.A.examination in 1955 could not throw much light except to give him the marks obtained by him in Maths 'B' paper without indicating whether he had taken Statistics as one of the optional subjects and what marks he had obtained in that ^{subject} paper. The respondents having not been satisfied with the documents and affidavit submitted by the applicant reverted the applicant to the post of Sr. Statistical Assistant. The applicant's contention is that he had taken Statistics as one of the optional subjects in B.A.Maths paper but without considering his case the department promoted Respondent No.4 another S.C.candidate even though he had not taken Statistics as one of the subjects in his B.A.Examination.

3. The respondents 1 to 3 have stated that the applicant was promoted as a Statistical Officer in 1983 on an adhoc basis for specific purpose from time to time. The last extension having expired on 30.6.84 he stood reverted from that date vide order dated 1.4.85. They have stated that at that time the Recruitment Rules provided for only direct recruitment as Statistical Officer and the question of the regularising the applicant during that period did not arise. They have, however, conceded that w.e.f. 28.4.84 the vacancy became regular in which the applicant had been promoted on an adhoc basis and it was decided to fill-up the vacancies by direct recruitment as per the Recruitment Rules then in force. However, the Rules were amended on 6.1.88 ^{which} provided for departmental candidates possessing degree in Statistics or Maths with Statistics or Commerce/Economics with Statistics with three years ^{being} regular service ~~were~~ made eligible. The applicant had a degree in Maths and he was asked to produce the satisfactory proof that he had taken Statistics in the Maths paper. They have also stated that in the representation dated 25.3.88 (Annexure-9 to the OA) the applicant had virtually conceded that he did not have Statistics in the Maths paper when he prayed in his representation that "if at all the requirement of statistics along with a degree in Maths is considered essential, the interest of the present candidates may kindly be protected". The respondents have also stated that he has not been able to produce any documentary proof to support his claim that he had taken Statistics in the Maths paper. The syllabus of Maths 'B' course in the B.A. degree ^{course} ~~course~~ of Punjab University contained two papers, Paper A and Paper B. Paper 'A' had two options, namely Algebra and

Trigonometry or Statistics (Annexure-13). Maths 'A' course
Report course did not have any paper on Statistics. If the
applicant had taken Statistics as paper 'A' in Maths 'B'
course, he would not have prayed for relaxation of the
requirement of Statistics in his representation dated
25.3.88. The marks sheet produced by him for Maths 'B'
course did not indicate that he had taken Statistics
as one of the papers. The Punjab University did not
confirm that he had taken Statistics paper and indicated
that all the old papers had been weeded out. As
regards respondent-4, they have stated that he was also an
S/C candidate and had taken Statistics as paper for
his Degree in Economics and he had produced certificate
to that effect.

4. We have heard the arguments of the learned
counsel for both the parties and gone through the
documents carefully. The applicant has not produced
any documentary proof to show that he had taken Stat-
istics as one of the optional papers in Maths 'B' course.
His representation dated 26.3.88 at Annexure A.9 of
the counter affidavit also gives him away by showing
that he had actually sought relaxation of the require-
ment of having Statistics as one of the papers for him-
self and other similarly situated candidates.

5. The contention of the learned counsel for
the applicant that he was promoted on 23.8.88 against
a vacancy which was coming up from 28.4.84 when the
Recruitment Rules had not been amended to provide for
statistics as one of the papers, cannot give him any
benefit. This is because before the Rules were amended
on 6.1.88 the Recruitment Rules provided only for
direct recruitment. Accordingly by the Rules as
applicable when the vacancy arose ~~also~~, the applicant
stands debarred from being considered for selection.

6. As regards R.4 the respondents 1 to 3 have clearly stated that he had produced his B.A. Degree in Economics which showed that he had taken Statistics also in his degree course.

7. In the light of above, we do not see any force in the application and dismiss the same without any order as to costs.

J. P. Sharma,
(J. P. Sharma) 20.4.93

Judicial Member

S. P. Mukerji,
(S. P. Mukerji)
Vice Chairman

Pronounced by me in open court
on 20.4.93.

J. P. Sharma,
(J. P. Sharma)
Member (D)