

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. No. 173 of 1990 and
C.C.P. No. 232 of 1990

New Delhi this the 5th day of August, 1994

Mr. Justice S.K. Dhaon, Acting Chairman
Mr. B.N. Dhoundiyal, Member

O.A. 173 of 1990

Shri Karma Veer
R/o House No.432-A,
Sector 19-B,
Noida.

...Applicant

Applicant in person

Versus

1. The Union of India through
the Secretary,
Department of Agriculture and
Cooperation,
Min. of Agriculture,
Krishi Bhavan,
New Delhi.
2. The Director General,
Indian Council of Agricultural Research,
Krishi Bhavan,
New Delhi.
3. The Secretary,
Indian Council for Agricultural Research,
Krishi Bhavan,
New Delhi.
4. The Chairman,
Agricultural Scientists Recruitment Board,
Krishi Anusandhan Bhavan,
Dr. K.S. Krishnan Marg,
Pusa,
New Delhi.
5. The Secretary,
Agricultural Scientists Recruitment Board,
Krishi Anusandhan Bhavan,
Dr. K.S. Krishnan Marg,
Pusa,
New Delhi.

...Respondents

By Advocate Shri V.K. Rao

C.C.P. No. 232 of 1990

Shri Karma Veer
R/o House No.432-A,
Sector 19-B,
Noida.

...Applicant

Applicant in person

Versus

1. Shri Prahlad Singh
Section Officer,
I.C.A.R.,
Krishi Bhavan,
New Delhi.

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2. Shri O.P. Kumar
Under Secretary,
I.C.A.R.,
Krishi Bhavan,
New Delhi.
3. Shri Mela Singh Kundal
Under Secretary,
I.C.A.R.,
Krishi Bhavan,
New Delhi.
4. Shri (Dr.) G.C. Srivastava
Secretary,
I.C.A.R.,
Krishi Bhavan,
New Delhi.

...Respondents

By Advocate Shri V.K. Rao

ORDER

Mr. Justice S.K. Dhaon, Acting Chairman

This O.A. (O.A.No. 173 of 1990) and the C.C.P. No. 232 of 1990 are inter related. They have been heard together and are being disposed of by a common judgment.

2. The controversy pertains to the direct recruitment of a Section Officer in the Indian Council for Agricultural Research (ICAR) by a Combined Competitive Examination. This O.A. is a voluminous one. The bulk of the facts mentioned therein are irrelevant. The allegations made against the Agricultural Scientists Recruitment Board and its members are wild and scandalous. The reliefs claimed constitute an interesting reading. Some of them are:-

(i) The Council be directed to take disciplinary action against those found involved in mala fide actions or misconduct against the applicant and also the Council be directed to prosecute those involved in two transfer affairs against the applicant and the loss of his confidential report for 1988.

(ii) The result for the post of Section Officers based on the Combined Competitive Examination, 1985, be quashed as vitiated by defects aforesaid.

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(iii) The Council and the Selection Board be directed by mandamus to get the answer-sheets of the applicant for the English papers, evaluated by outside experts after ascertaining that the same have not been sabotaged or tempered with.

(iv) The Council and the Selection Board be directed by mandamus to declare the result on the basis of the written examination and then give appointment to the applicant with all service benefits, if he falls within the first 11 candidates or then in any panel made etc.

(v) The observations by the Interview Board by the Combined Competitive Examination, 1986 for Administrative Officers be declared as hostile and bias and the result declared, therefore, in 1987, be quashed.

(vi) That the Council and the Selection Board be directed further by mandamus to assess the applicant fairly by constituting fair and impartial Board and then declare results and give appointment to the applicant, if he figures therein or in attached panel etc.

(vii) That the Council and the Selection Board be directed to evolve a suitable pattern for setting papers etc. for revaluating of the answer-sheets for compilation and finalisation of results thereof and so on by outside unbiased experts to the clear cut exclusion of all those serving in the Council or her institutes or those who have been on deputation to the Council or her institutes or those serving in any department but having direct or close official dealings within the Council or her institutes or the Selection Board.

(viii) To make the services of the Chairman suitably, if not completely outside the control of the Council and also bring suitable changes in the services of the Selection Board.

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(ix) That the appointments based on the Limited Departmental Competitive Examination for the post of Section Officers, 1988, be quashed.

(x) That the Examination itself be quashed, as unfair and fresh examination be conducted under revised rules and fair procedure.

3. The applicant, who appears in person, has stated that he appeared in the Examination held in the year 1985 for selecting Section Officers by direct recruitment. He stated that subsequent to the year 1985, he became overage and, therefore, he could not and did not appear in the subsequent examinations. He also stated that he was promoted as a Section Officer as a departmental candidate in the year 1990.

4. In the O.A., the averments, as material, are these. The papers and answer-sheets supplied did not carry any perforated mark stamp of the Board, there was no other stamp either; there was no place for the candidates to write their Roll Numbers and no place for the invigilators to sign the answer-sheets. With these safeguards, any sabotage could take place. The applicant apprehends that in ^{his} case some sabotage may have taken place. The whole weightage given to the interview was arbitrary. The Selection Board is headed by a Chairman. When the interview for the year 1985 was held, the then Deputy Director General (Education) had assumed the charge of the Chairman for six months and he was also a candidate for the post of a Chairman of the Selection Board. He was an interested person in the services of the Council as the Deputy Director General (Education). This may be contrasted with constitutional provisions (Articles 316, 317, 318 and 319).

4A. After ^{by} the completion of six months period, Dr. Maharaj Singh was reverted to the post of Deputy Director General (Education). The Interview Board consists of the Chairman, Dr. Maharaj

Singh and 3 members, who were, Shri S. Vasudev (Director, Personnel, ICAR), Shri S.S. Dawra (Secretary, ICAR) and Shri M.C. Jayaraman (Joint Secretary of the level of Director in the Union Public Service Commission where he had gone on deputation before he had served as Deputy Director Coordination in the Council and used to sit in a room opposite to the room of the applicant. He was basically a Section Officer in the Ministry of Agriculture and Cooperation and belonged to the C.S.S. Cadre). It can, under the circumstances, be hardly expected that the Chairman would be able to fully carry out the responsibilities, if any member went astray.

During the interview, the questions were put to the applicant about his family matters. The question put was as to which place the applicant belonged and what were his parents doing and where did they live. The member putting these questions make "grim face, nodded his head and abruptly ended the interview."

5. The applicant confined his arguments to the grievance that even though he had taken English as one of the subjects upto the graduate level and even though English paper Nos. I and II were of a high school standard only, yet he secured only 58% marks and 57% marks in the papers No.1 and 2 respectively. According to him, he should have secured 90% marks, if not cent percent marks. He, therefore, contends that some bungling must have taken place in the marking of the English papers. He has strenuously urged that we should direct the revaluation of marks in the English papers. Finally, he has urged that the respondents should be directed to give him an appointment as a Section Officer from the year 1985 with retrospective service benefits.

6. In reply, the learned counsel for the respondents has urged that there was no rule entitling a candidate to seek revaluation and in the absence of any rule, no revaluation could take place. He also urged that

the allegations made by the applicant that the marking of the English papers were not fair ~~and~~ had no foundation. ✓ also. Lastly, he has also urged that the O.A. having been filed in the year 1990 and the grievance which has occurred . . . on account of the result of the test declared in the year 1985, itself cannot be made and this O.A. should be rejected as barred by limitation.

7. The applicant has not been able to show us any rule which permits revaluation of a paper. He, therefore, has no right to claim revaluation of the English papers. It is to be presumed that the papers were correctly judged and the selection was fair. The applicant himself has averred that the Selection Board comprised of well qualified persons and it was a high powered one. In the absence of any specific allegations of mala fide against any member of the Board, it will not be just and proper to infer that the Selection Board did not act fairly. Since the presumption is otherwise, we are unable to grant any relief to the applicant.

8. Now we come to the Contempt Petition. On 16.03.1990, this Tribunal passed an interim order in O.A. 173 of 1990 in the following words:-

".....The applicant apprehends that he may be transferred from his present place of posting also. Considering the same, we order that the status quo as of today, with regard to his place of posting shall be maintained till next date....".

Unfortunately, the aforequoted interim order continues to operate even now.

9. In the Contempt Petition, the allegations are these. On 21.09.1990, the applicant was informed that following adverse remarks were given to him in the

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character roll for the year 1989-90:-

"He is generally intelligent but apprehensive of things which do not exist and often strays from the subject matter".

The applicant's appeal against the said remarks were dismissed.

10. It is alleged that the aforequoted adverse remarks are "mala fide, deliberate and practically derisive mockery of the interim order passed by this Tribunal on 16.03.1990 and lower or tend to lower the authority of the Tribunal".

11. Learned counsel for the respondents pointed out that during the pendency of this O.A., the applicant was promoted to a higher post. He accepted the promotion. Therefore, he was necessarily shifted from his place of posting. The applicant asserts that even the shifting from the place of posting on account of his promotion tantamounts to the disobedience of the aforequoted interim order passed by this Tribunal.

12. We are at loss to understand as to how giving of the adverse remarks to the applicant were forbidden by the aforequoted interim order. We are also of the opinion that, while passing the interim order, this Tribunal never intended that the applicant should not be promoted to a higher post. If the contention of the applicant is correct, then his promotion too should be deemed to be illegal and void, but that is not the legal position. This Contempt Petition is devoid of any merit and deserves to be dismissed outright.

13. This O.A. fails and is dismissed. The Contempt Petition also fails and is dismissed. However, there shall be no order as to costs in both the cases.

B.N. Dhoundiyal
(B.N. DHOUNDIYAL)
MEMBER (A)

S.K. Dharon
(S.K. DHAON)
ACTING CHAIRMAN