

In the Central Administrative Tribunal
Principal Bench, New Delhi

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Regn. Nos.:

Date: 13.11.1992

1. OA-1837/90,
2. OA-1838/90,
3. OA-1839/90, and
4. OA-1840/90

Shri G.M. Saini and Applicants
three others

Versus

Union of India through Respondents
Secy., Ministry of Labour
and Others

For the Applicants Shri J.P. Verghese, Advocate

For Respondent No.3 Smt. Raj Kumari Chopra, Advocate

For Respondent No.4 Smt. Avnish Ahlawat, Advocate

CORAM: Hon'ble Mr. P.K. Kartha, Vice-Chairman (Judl.)
Hon'ble Mr. B.N. Dhoundiyal, 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*

(Judgement of the Bench delivered by Hon'ble
Mr. P.K. Kartha, Vice-Chairman)

The applicants, who are working in the Office of the Labour Commissioner under the Delhi Administration, have filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying for the following reliefs:-

- (i) to declare the recruitment rules as set out in Annexure-I to the application as ultra vires and illegal as they are favouring one class of persons without having any

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nexus between the eligibility criterion and duties assigned and also discriminatory and violative of Articles 14 and 16 of the Constitution; and

- (ii) to restrain them from confining the recruitment rules to the said post only to a particular class of people holding Master's Degree in Social Work and direct them to recruit the candidates to the post in the same lines as the same Ministry is recruiting Labour Commissioners as indicated in the recruitment rules at Annexure-III.

2. We have gone through the records of the case carefully and have heard the learned counsel for both the parties. The Delhi Administration had advertised one post of Assistant Labour Commissioner in the Office of the Labour Commissioner by advertisement dated 24.2./2.3.90. Pursuant to the said advertisement, the applicants applied for the said post, but were not called for the interview by the U.P.S.C. Some others, who possessed the Master's Degree in Social Work, only were being interviewed. The interview was to commence from 11.9.1990. On 10.9.90, the Tribunal passed an interim order directing that while the selection process may go on, the respondents shall not

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act upon the results of the selection. The interim order has thereafter been continued till the case was finally heard and orders reserved thereon on 21.10.1992.

3. The case of the applicants in brief is as follows. According to them, they are holding the posts which are feeder posts for the post of Assistant Labour Commissioner and normally are eligible to become Assistant Labour Commissioner either on the promotee quota or as direct recruits. The feeder posts which they were holding had a particular set of essential qualifications for which they were eligible. The respondents have, however, deliberately changed the recruitment rules to suit a particular class of persons to show undue favouritism to them. The applicants belong to the category of Labour Officers and Inspecting Officers.

4. According to the recruitment rules for the post of Labour Officer in the Office of the Labour Commissioner, Delhi Administration, the qualifications prescribed are degree of a recognised university or equivalent, Post-graduate Degree/Diploma in Social Work or Labour Welfare, or Industrial Relations or Personnel Management, or in any other allied subject of a recognised university/institution or equivalent and three years' experience in a responsible capacity of labour welfare work, industrial relations or

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personnel management in an organisation employing substantial labour force. The qualifications prescribed for the post of Assistant Labour Commissioner which was advertised by the respondents, are degree of a recognised university, preferably in Economics or Social Science, successful training in Social Work in a recognised Institute such as the Tata Institute of Social Science, or the Kashi Vidyapith, Banaras, or other institutions affiliated to universities and about three years' experience in labour problems in a responsible capacity in a Government establishment or in industry, or in a Trade Union organisation. The duties prescribed for the post are "to promote harmonious industrial relations and labour management coordination and to take all possible steps to prevent occurrence of disputes. To ensure that all statutory obligations regarding conditions of employment and service are fully satisfied. Promoting measures for increasing production and efficiency in establishment and dealing with work relating to industrial relations or grievances of the industrial and non-industrial workers".

5. The applicants have stated that the Union of India in the Ministry of Labour, which is the controlling Ministry of labour personnel, both in the Central Government as well as in the Delhi Administration, is maintaining two sets of

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recruitment rules for identical posts and for no reason except to favour a particular class of persons who are otherwise not fit for the post and with qualifications which do not have any nexus with the duties and functions assigned to the post. The qualifications prescribed for the post of Assistant Labour Commissioner (Central) is different from that prescribed for the post of Assistant Labour Commissioner, Delhi Administration. According to the qualifications prescribed for the post of Assistant Labour Commissioner (Central), the candidate should possess a degree of a recognised university or equivalent, a degree in law or Post-graduate Degree or Diploma in Social Work/Labour Welfare/Industrial Relations/Personnel Management of a recognised university/institution or equivalent and two years' experience in a responsible capacity in handling/dealing with labour problems in a Government establishment, industry, or Trade Union organisation.

6. The applicants have stated that the respondents have confined the field of choice for the post of Assistant Labour Commissioner advertised by them to those candidates who have specific Master's Degree in Social Work. According to them, the said Degree has no relevance at all with the duties attached to the post. The respondents have allegedly ignored the first eligibility criterion, namely, a Degree

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in Economics/Social Science. The applicants fulfil the first eligibility criterion, but they do not possess Master's Degree in Social Work. The applicants have argued that a person ^{can} obtain a Degree in Social Work without having any knowledge in labour laws at all. Out of 13 papers offered for the Master's Degree in Social Work, Labour Laws and Industrial Relations are only optional papers without which a Degree in Social Work can be obtained. Thus, according to them, the qualifications prescribed and the duties attached have no reasonable nexus and the same are illegal and ultra vires to Article 309 of the Constitution.

7. The applicants have further pointed out that the U.P.S.C. which conducted the interview, has short-listed 25 candidates out of 153 candidates solely by applying the criterion of the candidate possessing the Master's Degree in Social Work. They have called in question the short-listing adopted by the U.P.S.C.

8. The U.P.S.C. have filed ~~xxxxxxx~~ counter-affidavit in which they have stated that the advertisement issued by them for the post of Assistant Labour Commissioner is in accordance with the relevant recruitment rules, and that the candidates who were called for the interview, possessed the essential qualifications. They have also

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stated that the short-listing was resorted to by them with a view to calling the most suitable candidates for the interview. The applicants did not possess the essential qualifications and they were, therefore, not called for the interview. The U.P.S.C. has further stated that they have applied the criterion for short-listing uniformly. Another point brought out by them is that the recruitment through the advertisement in question was to the direct recruit quota.

9. The Delhi Administration have stated in their counter-affidavit ~~in which they have stated~~ that the recruitment rules for the post of Assistant Labour Commissioner have been framed, keeping in view all the norms and instructions on the subject. The vacancy advertised through the U.P.S.C. falls against the direct quota post and the recruitment rules at Annexure A-1 to the application, relate to the filling up of the post by direct recruitment. They have denied that the post of an Inspecting Officer is a feeder post for appointment to the post of Assistant Labour Commissioner. According to the recruitment rules, 50 per cent of the posts are to be filled up by promotion from the posts of Labour Officer/Labour Officer-cum-C.I.S. and 50 per cent are to be filled by direct recruitment. In view of this, the

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question of Inspecting Officer being made the feeder post to the post advertised by them, does not arise. They have also stated that the recruitment rules framed by the Ministry of Labour are not automatically applicable to the various posts existing under the Delhi Administration. They have also denied the allegation that the rules have been framed to help or favour a particular class of candidates.

17. The basic grievance of the applicants is that while calling the candidates for the interview for the post of Assistant Labour Commissioner, the U.P.S.C. resorted to shortlisting and the candidates shortlisted possessed Master's degree in Social Work. Their contention is that Master's degree in Social Work has no nexus to the nature of duties to be performed by Assistant Labour Commissioner. Shortlisting of candidates by adopting reasonable criteria and on a uniform basis cannot be called in question on legal or constitutional grounds. (vide Surinder Mohan Sharma Vs. State of Punjab, 1989 (4) SLR 63). The advertisement in question related to the filling up of the post of Assistant Labour Commissioner in the direct recruitment quota and the weightage given to candidates possessing Master's degree in Social Work cannot be said to be arbitrary or unreasonable. Whether such a weightage

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may be given or not is a matter of policy. The learned counsel for the applicants relied upon a letter dated 26.10.1990 sent by the U.P.S.C. to the respondents in which they have expressed the view that the educational and other qualifications prescribed for the post of Assistant Labour Commissioner, need amendment. This would not alter the legal position, mentioned above. The U.P.S.C. have not stated so in their counter-affidavit filed in this case.

11. In the light of the foregoing discussion, we are of the opinion that the applicants are not entitled to the reliefs sought by them. The applications are, therefore, dismissed. The interim order passed on 10.9.90 is hereby vacated. There will be no order as to costs.

B.N. Dhoundiyal
(B.N. Dhoundiyal) 13/11/92
Administrative Member

P.K. Kartha
13/11/92
(P.K. Kartha)
Vice-Chairman(Judl.)