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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH: NEW DELHI

OA NO.1899/91

DATE OF DECISION: 7.2.1992.

SHRI KAMTA PARSHAD & OTHERS

...APPLICANTS

VERSUS

UNION OF INDIA & OTHERS

...RESPONDENTS

CORAM:

THE HON'BLE MR. T.S. OBEROI, MEMBER(J)

THE HON'BLE MR. I.K. RASGOTRA, MEMBER (A)

FOR THE APPLICANTS

SHRI P.T.S. MURTHY, COUNSEL

FOR THE RESPONDENTS

SHRI V.S.R KRISHNA & SHRI
JOG SINGH, COUNSEL.

JUDGEMENT (ORAL)

(DELIVERED BY HON'BLE MR. I.K. RASGOTRA, MEMBER (A))

In this Original Application there are three applicants who are working in the Department of Culture, as per particulars given below:-

Applicant No.1 Kamta Prasad Senior Preservation Assistant joined in February, 1973.

Applicant No.2 Shri K.K. Gupta, Senior Chemical Assistant joined in April, 1966.

Applicant No.3 Shri C.B. Gupta joined the department on 19.8.1965 as Junior Chemical Assistant and has been Senior Preservation Officer since 8.5.1972. The posts of Senior Chemical Assistant and Preservation Assistant, Senior Restorer are the feeder posts for promotion to the post of Assistant Chemist. There is a single post of Assistant Chemist in the department and the same fell vacant in 1987 when the incumbent of the post retired voluntarily.

2. According to the Recruitment Rules, notified on 26.3.1971 in the Gazette of India, the post of Assistant Chemist (Preservation) Grade Rs.2200-4000 is to be filled up by candidates who are within the age limit of 35 years.

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The same is relaxable for government servants by 5 years. The case of the applicants is that prior to the amendment of the rules in 1971 the age limit for the post of Assistant Chemist was 45 years for the departmental candidates.

3. The learned counsel for the applicants Shri P.T.S. Murthy argued that the applicants being departmental candidates should be allowed the benefit of relaxation in age upto 45 years. All the three applicants who are in the feeder grade on the reckonable date are beyond the age of 40 years. The relaxation available in accordance with the recruitment rules of 1971, therefore, does not confer eligibility for consideration for the post of Assistant Chemist on them.


4. Shri V.S.R. Krishna, learned counsel who appeared for Shri M.L. Verma, counsel for the respondents pointedly drew our attention to the fact that the rules were amended in March, 1971. The applicants were aware of the amended recruitment rules all the time and they never challenged the same at the appropriate time in the appropriate legal forum. They cannot at this belated stage claim the benefit of recruitment rules which was prevalent prior to 1971. The learned counsel for the respondents also submitted that the relief claimed by the applicants that the respondents be directed to amend the recruitment rules so as to raise the age limit of 45 years would have ^{only} prospective effect as and when the rules are amended in case such a direction is given. The post of Assistant Chemist however cannot be kept vacant all this time, as it will adversely affect public interest.


5. Shri P.T.S. Murthy, learned counsel for the applicant submitted that for another post of Deputy Keeper (Archaeology) the age limit of 45 years is prescribed while in the case of Assistant Chemist the age limit has been reduced from 45 years to 35 years and that ^{this} constitutes discrimination.

6. We have considered the respective submissions of the learned counsel for both the parties and perused the record carefully. We are of the view that the recruitment rules were amended in March, 1971 and the applicants were fully aware of the position. In case they felt aggrieved they should have agitated the matter at the appropriate time in the proper legal forum. The reliefs sought for also, even if granted, would not be of any help to them. It would mean that the post would be left vacant till the rules are amended. We are also not persuaded to accept the plea of any discrimination, as the same is founded on the hypothesis that the duties and responsibilities of the posts of the Deputy Keeper (Arch.) and Assistant Chemist are identical. The scale of pay alone does not establish the equality in duties and responsibilities and nature of work.

7. When the case had come up for admission on 28.8.91, an ex-parte interim order was granted to the effect that the three applicants in the O.A. before us be provisionally allowed to be interviewed by the U.P.S.C for the post of Assistant Chemist. We had further directed that the results of the interview shall not be announced till 3.9.91. The interim order was continued from time to time till today. The said interim order shall also stand vacated with immediate effect in view of the above.

8. In the circumstances of the case, we do not see any legal force in the case of the applicants. The O.A. is, therefore, dismissed, with no order as to costs.


(I.K. RASGOTRA)
MEMBER(A)


(T.S. OBEROI)
MEMBER(J)

February 7, 1992.