

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

**O.A. No. 1976 of
T.A. No. 1991**

DATE OF DECISION 19.9.91

| | |
|---------------------------|---------------------------------------|
| <u>Manoj Kumar</u> | Petitioner |
| <u>Shri G.D. Bhandari</u> | Advocate for the Petitioner(s) |
| Versus | |
| <u>Union of India</u> | Respondent |
| <u>Shri M.L. Verma</u> | Advocate for the Respondent(s) |

CORAM

The Hon'ble Mr. Justice Ram Pal Singh, Vice-Chairman (J).

The Hon'ble Mr. Shri R. Venkatesan, Member (A).

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

(Orders of the Bench delivered by Hon'ble Shri
Justice Ram Pal Singh, Vice-Chairman (J).)

O R D E R

The applicant by this O.A., filed under Section 19 of the Administrative Tribunals Act, 1985, prays for quashing Annexure A-1 by which the respondents have informed the applicant on 18.7.91 that he does not possess the essential qualification as on 1.8.90. The applicant has also prayed for a direction to the respondents to issue the appointment order of the applicant with further direction to permit the applicant for joining the training course being conducted by the B.S.F. The applicant has also prayed for interim relief to allow the applicant to join the training as Sub-Inspector on provisional basis till the disposal of this O.A.

2. Respondent No. 2 is the Chairman of the Staff Selection Commission working under Respondent No.1, the Department of Personnel & Training, Ministry of Home Affairs. By Annexure A-2, the Staff Selection Commission of respondents issued an advertise-

Law 216

ment on 4.6.90 inviting applications for 195 posts of Sub-Inspectors for Delhi Police, CBI and Central Police Organisations. In this advertisement, in para 8, the educational qualifications of the intending candidates were mentioned. For convenience it is reproduced:

"Educational qualifications:- (a) Essential Qualifications for all posts:- Degree of a recognised University. Candidates who have yet to appear at the degree examination or whose result has been withheld or not declared on or before 1.8.90 are NOT eligible."

According to this advertisement, it becomes clear that the candidates should possess the essential educational qualification before the cut-off date of 1.8.90. The applicant in response to this advertisement applied for the post and in the application form, under column 9, "Do you possess minimum educational qualifications on 1.8.90

Write 1. if yes
2. if no "

the applicant marked "1" i.e. the applicant possesses the minimum educational qualifications as on 1.8.90. Hence, the applicant was allotted Roll No. 1217119 for appearing in the examination for the above said posts which was scheduled to be held on 2.9.90. The applicant appeared in the written test on 2.9.90 and was directed by the respondents to appear for viva voce on 20.3.91. He also appeared for the physical efficiency test and in the interview he was declared successful. The final result was published in the Employment News on 8/14.6.91 (Annexure A-5). While the applicant waited for the order of appointment for joining the BSF, ^{he} received the memorandum dated 16.6.91 (Annexure A-6) directing the applicant to produce attested copy of the educational qualifications as proof of having acquired the essential educational qualification before 1.8.90. It appears from the perusal of the O.A. that the result of the applicant was declared by the Meerut University on 30.8.90 while the cut-off date, according to the advertisement, was 1.8.90. The applicant argues in the O.A. that the cut-off date fixed by the respondents as 1.8.90 is not only arbitrary but also violates Articles 14 and 16 of the Constitution and also the fundamental rights of the applicant for getting employed.

Ramlih

By Annexure A-1, the applicant was informed by the respondents that as he has not possessed the essential educational qualification on 1.8.90, his candidature has been cancelled. The applicant is aggrieved by this Annexure A-1.

3. Notice was issued to the respondents and was given 'Dasti' by the order of this Tribunal on 30.8.91. Today, the respondents appeared through Shri V.S.R. Krishna, proxy counsel for Shri M.L. Verma, counsel for the respondents, and without filing any return, Shri V.S.R. Krishna opposed the admission as well as the grant of interim relief.

4. Shri G.D. Bhandari, counsel for the applicant contended that by fixing the cut-off date as 1.8.90, the respondents have acted arbitrarily. He also relied upon the case of *Shri Krishan vs. Kurukshetra University* (AIR 1976 S.C. 376). The examinations held by the Universities are in accordance with the provisions of the statutes by which the entire administration of the University is governed and any breach of these statutes on the part of the University shall invite judicial interference as was done in this case by the apex court. In the present case, there are no statutes like that of an educational institution and all the conditions were laid down by Respondent No. 2 in the advertisement for the posts. If the applicant was not eligible to appear in the examination for selection of the proper candidates, then he should not have indicated in his application form that he possesses the required qualification given in para 8 of the advertisement. Admittedly, according to the applicant, his result was not declared by the Meerut University before 1.8.90. Hence, on the cut-off date of 1.8.90, he cannot be said to have possessed the educational qualifications as demanded in the advertisement. Furthermore, the cut-off date of 1.8.90 was not only with regard to educational qualifications, but also with regard to the age of the candidates who intend to participate in the competition. Shri Bhandari also cited the case of *Uttar Pradesh Mahavidyalaya Tadarsh Shikshak Niyamitikaran Abhiyan Samiti vs. State of U.P. & Ors.* (1987 (2) S.C.C. 453). This case has no application in the facts of the ~~facts of the~~ present case. In the

Lamliy

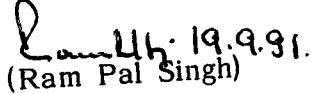
6

case of J. Ranga Swamy vs. Govt. of Andhra Pradesh and Ors. (AIR 1990 S.C. 535), the apex court has laid the law that it is not for the court to consider the relevance of qualifications prescribed for various posts. The qualifications prescribed or advertised for any post are based upon the decisions made by the examining or the recruitment authorities. The relevancy and suitability of the qualifications are not to be judged by the courts or to assess the reasonableness if it does not smack of arbitrariness.

5. The applicant himself in the first place should not have given written information in his application form where in para 9 he has mentioned that he possesses the minimum educational qualification as on 1.8.90. He could have clearly mentioned that he has appeared in the examination of the Meerut University, but due to the fault of the University, results have not been declared. Hence, he cannot say whether he has passed or failed and whether he possessed the minimum educational qualifications as advertised. The applicant has not come with clean hands. It is also to be seen that in the application form filled by the applicant, in answer to para 5(ii) where "Age as on 1.8.90" is given and the applicant has mentioned that his age on 1.8.90 will be 21 years and one month. We, therefore, conclude that the applicant has not come before this Tribunal with clean hands and also did not file his application form before Respondent No. 2 giving clear and truthful information. In such a situation, we are of the opinion that this O.A. is bereft of any merit and no interim order as prayed for can be passed in favour of the applicant. Consequently, this O.A. is dismissed. Parties shall bear their own costs.


(R. Venkatesan)

Member (A)


(Ram Pal Singh)

Vice-Chairman (J)