

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

DA NO. 2589/91

HON. SH. A.V. HARIDASAN, VICE-CHAIRMAN 'J'
HON. SHRI R.K. AHOOJA, MEMBER 'A'

(39)

NEW DELHI, THIS 20th DAY OF JANUARY, 1997.

RAKESH KUMAR SHARMA
presently working as Lab Assistant
in NZP,
r/o C-8, National Zoological Park
New Delhi - 3

...APPLICANT

'By advocate - Shri Naresh Kaushik'

VERSUS

1. Chairman
Staff Selection Commission
C.G.P. Complex
Block No.12
NEW DELHI - 3.
2. Shri R.M. Arora
Director
National Zoological Park
NEW DELHI.
3. Miss Sangeeta
c/o Shri R.D. Kothial
G-49 Ansari Nagar 'AIIMS'
NEW DELHI - 29.
4. Shri Santosh Singh Rawat
s/o Shri Khum Singh Rawat
Village Kotra Pushkar Road
P.O. Regional College
Ajmer - 305 001
'RAJASTHAN'

...RESPONDENTS

'By advocate - Shri M.K. Gupta, and
Shri Rajendra Singhvi, for No.3 and 4)

ORDER

Hon'ble Mr R.K.Ahooja, Member (A)

The applicant submits that he has been working in the National Zoological Park 'Delhi Zoo' as a Lab Assistant since 6.1.1986 and also looking after the Animal Section.

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Respondent No.1 had advertised one post of Zoo Ranger vide advertisement at Annexure 'A' on 3.11.1990 for which the applicant had also applied. Thereupon he was asked to appear in the proficiency-cum-screening test on 27.7.1991, which he cleared and was amongst the seven candidates who were asked to appear for interview on 4.10.1991. After the scrutiny of documents, only four candidates appeared before the interview board including the applicant and respondent No.3 and 4. The applicant alleges that respondent No.3 Miss Sangeeta did not have the requisite experience certificate and initially was not allowed to appear in the interview but later on somehow she managed to appear even though she lacked the requisite essential experience. Similarly, respondent No.4 had only a three months experience certificate from Jodhpur Zoo. Though there was only one vacancy of Zoo Ranger advertised, respondent No.1 nominated two candidates, namely, respondent No.3 and 4, overlooking the claim of the applicant who was the only eligible candidate. The applicant also alleges that respondent No.4 had produced a one year experience certificate from Municipal Garden, Beawar 'Ajmer' while it has been certified by the District Forest Officer and Chief Conservator of Forest and Chief Wild Life Warden, Rajasthan, that there is no such Zoo in that town. The applicant filed a representation against the illegal selections but to no avail. He therefore has approached this Tribunal with the prayer to quash/set aside the offer of appointment issued to respondent No.3 and 4, declare these appointments as null and void and to give the offer of appointment to the applicant in their place. He has also made a ~~prayer~~ for a separate selection process for the ~~one~~ second post of Zoo Ranger.

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2. Respondent No.1, ~~Shashi~~ SSC, in reply have stated that the selection was made by the Commission as per the laid down procedures and in accordance with the performance of the candidates in the proficiency-cum-screening test and marks obtained in the interview. They state that out of the seven candidates called for interview, three did not produce proofs in support of their claim relating to the essential qualification No.2, that is, experience in looking after wild life in zoos or sanctuaries. Therefore they were not allowed to appear. Respondent No.3, Miss Sangeeta, produced a training certificate on the basis of which she was found to fulfill essential qualification No.2 relating to experience. Initially respondent No.2 had sent to SSC a requisition for one post of Zoo Ranger which was duly mentioned in the advertisement but subsequently the respondent No.2 on 12.8.1991, that is, before the date of interview on 4.10.1991, sent requisition for one additional post of Zoo Ranger and it was on that basis that two candidates were selected. Respondent No.1 submits that para 8 of the instructions of the advertisement clearly provide that more vacancies may also be filled through the said advertisement and also that vacancies mentioned were subject to alteration. As regards the experience certificate of respondent No.4, they submit that they only verify the original certificates. Further verification of the certificate is up to the appointing authority to which the various documents are forwarded with the recommendations of the Commission. They therefore state that this is a matter on which respondent No.2 may give their reply.

3. Respondent No.2, namely, National Zoological Park (Delhi Zoo), state that the applicant is qualified only for clinical laboratory work. He was called for the

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interview even though he was overage and had no knowledge about breeding, biology and conservation of wild life. Being less qualified than the other candidates, he was not selected. The experience certificate produced by respondent No.3 and 4 were duly considered by the selection committee and accepted. As regards the complaint filed by the applicant, respondent No.2 submits that the subject matter of the complaint is under investigation by an independent authority.

4. Respondent No.3 in her reply affidavit has submitted that she is a Science graduate with Environmental Science and that she fulfilled all the eligible criteria. The applicant is in occupation of quarter No.C-8 which has been allotted to her and the present application ^{has been} filed because the applicant does not want to vacate the house. Respondent No.4 claims that he fulfills all the conditions. The applicant is on the other hand an Intermediate in Science and not a Graduate hence not eligible to be considered. He claims that he was curious to understand the environment of animals and therefore had worked ^{on} honorary basis with the Municipal Zoo, Beawar, even while he was studying in college.

5. We have heard the 1d. counsel for all the parties and also gone through the pleadings on record. The advertisement issued by respondent No.1, SSC, lays down the following essential qualifications:

- 'i' F.Sc. /i.e., Intermediate in Science' preferably with B.Sc. in Botany/Zoology/Agriculture;
- 'ii' Experience in looking after wild life in zoos, and sanctuaries.

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The main allegation by the applicant against the selection is that neither respondent No.3 nor No.4 possessed the essential qualification No.2, viz., "experience". At the time of selection. Lt. counsel for the applicant argued that it has been held by Jammu & Kashmir High Court in DR. AKHTAR JAN NAQEEB VS. STATE OF J&K & ORS. 1987 (5) SLR 601 that where no power is reserved in the advertisement for relaxing the qualification of experience in the case of candidates of outstanding merit, selection of candidates lacking such qualification of experience would be illegal. He further submitted that this Tribunal also had in the case of DR. R.K. JINDAL VS. UOI & ORS. ATR 1991/1 CAT 401 held that even enhancement of the required experience for shortlisting of candidates would be well within the purview of the selection commission. The Punjab & Haryana High Court had also quashed the selection in NAresh KUMAR & ORS. VS. STATE OF PUNJAB & ORS. 1985/1 SLR 429 on the ground that the selected candidates did not fulfill the prescribed qualifications as per the advertisement. The Supreme Court had also in DISTRICT COLLECTOR & CHAIRMAN, VIZIANAGARAM SOCIAL WELFARE RESIDENTIAL SCHOOL SOCIETY & ANR. VS. M. TRIPURA SUNDARI DEVI 1990/3 SCC 655 upheld the action of the respondents in not allowing a selected candidate to join when he did not have the minimum qualification prescribed in the advertisement. The Lt. counsel also submitted that respondent No.3 only possessed a certificate issued by the University of Delhi, University-Interaction Cell (Ann. G) that she had received training in zoo management from June 21, 1989 to July 4, 1989, a period of barely ten days, excluding the holidays. On the other hand, respondent No.4 had produced a certificate from Zoo and Municipal Garden Supervisor, Reawar, dated 10.11.1990 that he had worked under his supervision for one year to maintain various



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municipal gardens and zoo. On the other hand, certificate at Annexure D shows that there is no such zoo in Reawar town. IN any case, respondent No.4 was during that period a student and any training received during studies could not be regarded as professional experience.

6. We have carefully considered the matter and in our view the conclusion is inescapable that the allegations made by the applicant against the selection of respondent No.3 and 4 are correct. The Recruitment Rules for the post called for experience as an essential qualification. The only experience respondent No.3 had was a certificate issued by the Delhi University that she had received training in Zoo management for a period from 21st June to 4th July. This was as part of an interaction programme. By no stretch of imagination can this be regarded as experience of working in zoo or sanctuary. We are unable to agree with the contention of the 1d. counsel for the respondents that no minimal period has been laid down and it is for the expert body, that is, SSC, to decide whether any experience is adequate or not and this decision having been taken by an expert body it is not open in judicial review to question this judgement. If the respondent had worked in the zoo in a professional capacity, there could have been some merit in this argument. In the present case, there is no experience whatsoever as respondent No.3 during that period was a student of Delhi University and underwent only a training programme for ten days as part of a student-industry interaction programme. A training of ten or 15 days, however intensive it may be, cannot be classified as experience otherwise one might even say that ten visits to zoo also constitute ten days experience. In the present case therefore, there was no evidence whatsoever before the selection committee to establish that there was any experience available with

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respondent No.3 in management of zoos and sanctuaries. At the time of selection, respondent No.3 patently lacked the essential qualification of experience.

7. Insofar as respondent No.4 is concerned, he admits in his reply that the so called experience was gained by him while he was still a student and that he had worked in honorary capacity only. It is not necessary for us to go into the question as to whether there was indeed a zoo at that time in Beawar or not. The fact remains that respondent No.4 was a regular student and was not working therefore in a professional capacity in the zoo. Any experience gained by any person on part-time honorary work in the zoo could not be equated to professional experience which would enable him to work as a Zoo Ranger. In the circumstances, the certificate issued by the Municipal Garden Supervisor, Beawar, had no relevance.

8. Lengthy arguments were advanced before us to establish that the second qualification of experience was not an essential qualification and had been wrongly so advertised. Even if it were so, the whole selection process would be liable to be set aside since on the statement of respondent No.1, at least three candidates were not allowed to appear because it was found that they did not possess the requisite experience. If indeed it was not necessary to have the experience qualification, then the rejection of those three candidates would nullify the selection procedure.

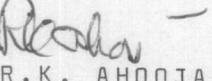
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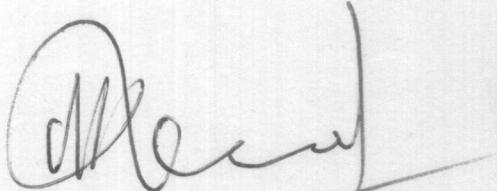
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9. In the light of the above discussion, we have no hesitation in coming to the conclusion that the selection of respondents No.3 and 4 was contrary to the Recruitment Rules and bad in law. The same is therefore quashed and set aside. We are not certain whether any panel was recommended by the Staff Selection Commission which included any one apart from respondents 3 & 4, whose selection has been quashed. However, in case the applicant was next on the panel, respondent No.1 and 2 are directed to then consider his appointment. In case the applicant is so appointed, he will be deemed to have been appointed on the date on which respondent No.3 and 4 were appointed as Zoo Ranger, and his seniority will be fixed accordingly. However, in such a case he will not be entitled for any arrears of pay. In case the applicant did not figure next in the list of those recommended for appointment, the respondents are free to make a fresh selection, in which event the applicant shall be given necessary age relaxation to be able to be considered for the selections.

No costs.


'R.K. AHOOJAI'
MEMBER 'A'

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'A.V. HARIDASAN'
VICE-CHAIRMAN 'J'