

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

D.A No.1333/92 and D.A 1335/92

New Delhi this the 27th day of August, 1997.

(23)

Hon'ble Smt. Lakshmi Swaminathan, Member (J)
Hon'ble Shri R.K. Ahooja, Member (A)

Shri Pankaj Dubey
s/o Shri B.M. Sharma, aged 33 years
Resident of 1985 Katra Lachhu Singh,
Fountain, Chandni Chowk, New Delhi.

... Applicant

(By Advocate Shri P.T.S. Murthy)

Vs.

1. Union Public Service Commission,
through its Secretary, Dholpur House,
Shahjahan Road, New Delhi-11

... Respondents

(By Advocate Shri Madhav Panikar)

D.A-1335/92

Shri Anil Kumar Srivastava,
Labour Enforcement Officer(Central)
O/O the Chief Labour Commissioner(Central)
Room No.615, Shram Shakti Bhawan, Rafi Marg,
New Delhi-1

... Applicant

(By Advocate Shri P.T.S. Murthy)

Vs.

1. Union Public Service Commission
through its Secretary, Dholpur House,
Shahjahan Road, New Delhi-11

... Respondents

(By Advocate Shri Madhav Panikar)

O R D E R (ORAL)

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

Since the issues involved in both these DAs are similar and identical, therefore, these DAs are being disposed of, with the consent of the parties, by this common order.

2. The applicants who were working as Labour Enforcement Officers under the Chief Labour Commissioner

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(Central), applied for the post of Grade V officers in the Central Labour Service advertised for by the UPSC in advertisement No.1 (Item No.10) of the year 1992 (Ann.1). The applicants had earlier applied for the similar posts during the year 1988 in response to an advertisement No.44 (Ann.II). Both the applicants were called for interview by the respondents (UPSC). However, they did not succeed. On the other hand, they applied again in response to 1992 advertisement, but the UPSC did not call them for interview at all. They were aggrieved by this refusal of the UPSC to call them for interview. When they approached this Tribunal, by an interim order dated 28.5.92, respondents were directed to allow the applicants provisionally to appear in the interview but their result were not to be declared.

3. Respondents in their reply submitted that they had received as many as 3023 applications from general candidates out of which ~~only~~ 1026 general candidates fulfilled the minimum essential qualifications for the post. In the circumstances, they had no alternative but to adopt short-listing criteria for the selection of best candidates from those fulfilling the minimum qualifications prescribed for the post. The short-listing criteria adopted by them was as follows:-

- " (i) degree of a recognised university or equivalent,
- (ii) degree in Law or Post-graduate degree or Diploma of 2 years duration in Social Work or Post-graduate degree or Diploma of 2 years duration in Labour Welfare or Post-graduate degree or Diploma of 2 years duration in Industrial Relation/Personnel Management of a recognised University/Institution or equivalent,
- (iii) Six years or more experience (Instead of two years experience) in the pay scale of not less than Rs 1640-2900/- (Revised) or drawing consolidated emoluments of Rs 2500/- as on 30.1.92 (i.e. closing date of receipt of applications) (The

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respondents capacity has been defined in terms of pay scale or gross emoluments). Six years experience towards E.Q.(iii) has been taken into account only after the acquisition of E...(i)."

Respondents submit that the applicants did not meet the short-listing criteria u.s.t.E.Q.(ii) and E.Q.(iii) as they do not have 2 years diploma or six years experience as L.E.O.

4. We have heard the learned counsel for both the parties and also gone through the pleadings records.

5. Shri P.T.S. Murthy, learned counsel for the applicants submitted that the respondents are entitled to fix short-listing criteria but this criteria has to be rational and reasonable. The respondents fixed the criteria of 6 years or more experience in the pay of not less than Rs 1640-2900(Revised) or drawing consolidated emoluments of Rs 2500/- as on 30.1.1992. The applicants were in fact in much higher scale of Rs 2000-3200 and have 4 years and 10 months experience. He submitted that by this short-listing criteria persons with more experience in lower pay scale came to be preferred in relation to those who had been in higher pay scale and discharging higher responsibilities but with lesser experience. The criteria adopted by the UPSC was thus not rational and reasonable. He relied on the judgment of the Hyderabad Bench delivered on 29.4.94 in OA 430/92(K.K.H.M.Syam Sunder V.UPSC) in which similar facts were involved and wherein it was held that the applicant should have also been called for interview when the employees in the lower scale of Rs 1640-2900 in Central Labour Service with six years experience satisfied the eligibility criteria involved by the respondent Commission for short-listing. It was also ordered that the applicant in that case having already been interviewed as per interim order, respondent Commission should

announce the result in regard to the applicant and he may be appointed if selected. Shri Murthy, learned counsel for the applicant submitted that one of the applicants, namely, Shri Pankay Dubey has been found suitable by the respondents when he was interviewed on the strength of the interim order of the Tribunal. In view of this position, the results of the applicants be declared by the respondent Commission and if they are found suitable they should be appointed to the post to which incidentally they have already been promoted by a different route on the basis of promotion through the DPC.

6. We have carefully considered the above arguments but, however, are unable to agree with these submissions. As would be seen the short-listing criteria involved three different aspects. Shri Murthy, learned counsel for the applicant has drawn our attention only to the third aspect, i.e. the minimum experience required for short listing. As regards the second aspect, admittedly, the applicants do not have either a degree in Law or Post graduate diploma of 2 years duration in the prescribed subjects. In view of this fact, it is clear that they do not fulfil the minimum qualifications for meeting the short listing criteria and it is not necessary for us to go into the question as to whether the respondents were justified in fixing the criteria regarding the experience. It has been held by the Supreme Court in a number of judgments including the latest one i.e. UOI & Ors Vs. T. Sundararaman & Ors(JT 1997(5) SC 48) holding that U.P.S.C. short-listing criteria on a rational and reasonable basis has to be upheld. This being so and considering that the applicants admittedly do not meet the 2nd Ednl. qualifications i.e. Degree in Law or

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2 years Diploma, therefore, are not entitled to be called for interview by the U.P.S.C.

7. In the facts and circumstances of the case and in the light of the above discussions, we find no merit in the applications which are accordingly dismissed. No order as to costs.

Copy of this order may also be placed in OA
1335/92 (Snil Kumar Srivastava v. UPSC)

~~R.K. Ahuja~~

(R.K. Ahuja)

Member (A)

~~Lakshmi Swaminathan~~

(Smt. Lakshmi Swaminathan)

Member (J)

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