

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI  
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C.A. NO. 2427/92

Date of Decision : 26.11.92

Shri Arvind Guglani &  
Shri K.C. Guglani

...Applicants

Vs.

Union of India & Ors.

...Respondents

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Hon'ble Shri P.C. Jain, Member (A)

Hon'ble Shri J.P. Sharma, Member (J)

For the Applicants

...Shri R.L. Sethi

For the Respondents

...Shri Anup Bagai

JUDGEMENT

(DELIVERED BY HON'BLE SHRI J.P. SHARMA, MEMBER (J))

Shri K.C. Guglani, who retired on 31.8.1992 as Principal, Government Boys Senior Secondary School, Rampura, Delhi filed this application under Section 19 being aggrieved by non grant of the discipline in Engineering Branch opted by his son, Shri Arvind Guglani, who applied in pursuance of an advertisement issued by the Director, Training and Technical Education, Delhi Administration on 7.6.1992 for nomination to various degree courses in Engineering outside Delhi where a seat was reserved for the sons/wards of Delhi

Administration employees retiring on or before 31.12.1992.

It is not disputed that the applicant, Shri Arvind Guglani was duly selected for such nomination and was offered degree course seat in Structural Engineering at Faculty of Engineering and Technology, Anna Malai University, Tamil Nadu. He, however, gave his choice of Chemical Engineering, which was not given to him. He again gave another choice of Plastic Technology at Kanpur for which a seat has fallen vacant as the selected incumbent, Ms. Anita Pal did not join. The applicant made a representation which was rejected by the impugned order dt. 9.9.1982. The applicants have prayed that Sh. Arvind Guglani be nominated in Chemical Engineering or in the alternative, he be nominated in Plastic Technology at Kanpur.

2. The respondents contested the application and took the preliminary objection of jurisdiction. They also opposed the relief, prayed for, by the applicant for nomination in Chemical Engineering or alternatively in Plastic Technology at Kanpur. It is stated by the

respondents that the grievance of the applicant does not fall within the jurisdiction of the Tribunal as it relates to nomination of the student for admission to degree course in Engineering outside Delhi against the seat allotted by the Ministry of Human Resources and Development, Government of India. It cannot be said to be a service matter.

3. Heard the learned counsel for the parties. The learned counsel for the applicants argued that applicant No.2 retired as Principal before 31.12.1992 from the post of Principal under the Delhi Administration, so his son, applicant No.1 by virtue of that employment of the father is entitled to a seat as per reservation and this very much has a nexus with his employment as a Central Government employee. Hence the Tribunal has jurisdiction. The legal right to applicant No.1 has accrued to him by virtue of being son/ward of applicant No.2. Section 3 (q) is reproduced below :-

"(q)"service matters", in relation to a person, means all matters relating, to the conditions of his service in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or, as the case may be, of any corporation (or society) owned or controlled by the

Government, as respects-

- (i) remuneration (including allowances), pension and other retirement benefits;
- (ii) tenure including confirmation, seniority, promotion, reversion, premature retirement and superannuation;
- (iii) leave of any kind;
- (iv) disciplinary matters; or
- (v) any other matter whatsoever;"

A reading of the above would show that the matter should first relate to condition of service. The subject matter of the dispute in the present case has nothing to do with the conditions of service of applicant No.2. In other words, the instant case is not a service matter and, therefore, cannot come within the jurisdiction of the Central Administrative Tribunal. Secondly, with regard to the words in the above quoted provision of Section 3(q) "Any other matter whatsoever", it should be *ejusdem generis* as the matters listed in sub clause (i) to (iv) above of the said rule of sub section 3(q) listed above. The present matter is not *ejusdem generis* when compared to the matters listed above. What can come within the service matter has been considered by the Full Bench decision of the Central Administrative Tribunal in 1992 (21) ATC p-261 (Indian National NGO's Association of Army Electronics Inspection Vs. Secretary, Ministry of Defence). The Full Bench has considered the

judgment of the Hon'ble Supreme Court regarding the matter which could come within the scope of service matters. The expression 'condition of service' occurring in Article 309 of the Constitution has been subject matter of consideration by the Hon'ble Supreme Court. In the case of State of Madhya Pradesh vs. Sardor Singh, reported in 1970(3) SCR 302, it is held that the expression condition of service means all those conditions which regulate the holding of a post by the person right from the time of his appointment till his retirement and even beyond it in matters like pension etc. This decision has been followed in the subsequent decisions of the Hon'ble Supreme Court in J.N. Supra Reddy vs. Andhra University, AIR 1976 SC p-2049 and in the case of State of Punjab vs. Kailash Nath, AIR 1989 SC p+558. In the latest decision, the Hon'ble Supreme Court has further stated as follows :

"In the normal course, what falls within the purview of the term conditions of service may be classified as salary or wages including subsistence allowance during suspension, the periodical increment pay scales, leave, provident fund, gratuity, confirmation, promotion, seniority, tenure or termination of service, compulsory or premature retirement, superannuation, pension, changing the age of superannuation, deputation and disciplinary proceedings."

Hence it is not possible to accept the broad preposition put forward on behalf of the applicants that every right or privilege that accrues by virtue of his being an employee is a condition of service. The test to be applied is as to whether it regulates the holding of the post. It can be said to regulate the holding of the post when there is a proximate nexus between the right or matter and the holding of the post. If it does not have any bearing on the holding of the post, it cannot be regarded as regulating the holding of the post.

4. Another fact that has to be considered is that by virtue of the advertisement issued by the Directorate, Training and Technical Education on 7.6.1992, seven categories have been reserved for certain candidates, i.e., five for Scheduled Caste, one for Scheduled Tribe, Physically Handicapped, Defence Personnel, Outstanding Sportsmen, sons/wards of freedom fighters and lastly for sons/wards of employees of Delhi Administration. None of these categories can be said to be coming within the jurisdiction of the Central Administrative Tribunal in case the selection or ultimate nomination is questioned

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by the incumbents aspiring for such categories. There cannot be two forums separately for each of them. Actually the grievance of applicant No.2, i.e., the son is that he has not been given the course which he has opted, e.g. Chemical Engineering. He has already been selected by virtue of being son/ward of Employee of Delhi Administration and there is no dispute about it. But the question is as to why the respondents have not given him the discipline of his choice in the Engineering Branch for which he has given his option earlier and another choice later on. This subject matter cannot be so related with the service condition of his father, applicant No.1. Applicant No.2, therefore, has alternative judicial remedy available to him before other competent forum and he cannot come for assailing his grievance before the Central Administrative Tribunal. In view of the above facts, we are of the considered view that the Central Administrative Tribunal has no jurisdiction to entertain the matter and the application is, therefore, held to be not maintainable. The applicant, if so advised, can assail his grievance in the competent forum. The present application, is therefore, disposed of accordingly. No costs.

*J. P. Sharma*

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(J.P. SHARMA)  
MEMBER (J)

*Dec 24/1992*  
(P.C. JAIN)  
MEMBER (A)