

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH NEW DELHI

(9)

O.A.2605/92

Date of decision 30-4-93

Ishwar Chand & Others

Applicant.

Versus

Delhi Administration
& Others.

Respondents.

Shri Ashok Aggarwal

Counsel for the applicants.

Shri Surinder Adlakha

Counsel for the respondents.

Coram:

The Hon'ble Shri N.V.Krishnan, Vice Chairman(A).

The Hon'ble C.J.Roy, Member (J).

1. Whether to be reporters of the local papers, be allowed to see the judgement or not? ✓
2. To be referred to the reporters or not? x

JUDGEMENT

(Hon'ble Shri N.V.Krishnan, Vice Chairman(A).

after &
This application has come up for admission and hearing the parties, we are satisfied that this can be disposed of at this stage and we proceed to do so. It is admitted that the applicants are holding the regular post of Mali under the respondent No.2 at various places. The pay scale of the post held by them is Rs.750-940. In the department, there is another class IV post of Forest Guard in the pay scale of Rs.775-1025. The rules of recruitment for this post, which have been produced by the respondents at annexure R-1, make it clear that this post should be filled up only by direct recruitment, by persons in the age limit of 18 to 25 years, who should have passed the middle class.

2. The applicants claim that, in accordance with the standing instructions issued by the Department of Personnel, they are also entitled to apply for this post

and their claim should also be considered alongwith the claims of others sponsored by the Employment Exchange for direct recruitment. Therefore, the applicants sent applications for consideration of their names for recruitment, which are annexed in the annexure-A series. It is stated in their application that the department has written to the Employment Exchange to sponsor about 23 names for recruitment to the posts of Forest Guard, but they have not given an opportunity to the departmental candidates, like the applicants. It is also stated that in 1989, though applications were invited and received from departmental candidates, yet their names were not considered.

3. It is in these premises, that the applicants have filed this application for a declaration that the applicants are entitled to be considered, for appointment to the post of Forest Guard carrying the pay scale of Rs. 775-1025.

4. The respondents have filed their reply in which it is stated that the post of Mali/Regular labourer, held by the applicants is not in the feeder channel for the post of Forest Guards and further that recruitment to the post of Forest Guard is not in progress.

5. When the application came up for hearing today, the learned counsel for the applicant drew our attention to the office memorandum dated 27-2-78 (Annexure B) issued by the Department of Personnel & Administrative Reforms relating to the relaxation of upper age limit for departmental candidates of appointment to Group 'C' and Group 'D' posts in so far as it concerns the extension of that benefit to workcharged staff. A perusal of the circular shows that three circulars had already been issued earlier in which it had been directed that

the departmental candidates ~~possessing~~ ⁱⁿ the prescribed ~~limits~~ ^{limits} ~~possessing the prescribed~~ ^{limits} age, and educational qualifications could be considered.

The instructions have been summarised in the Annexure 'B' memorandum as follows:-

- "i) Departmental candidates possessing the prescribed age & educational qualifications could be considered alongwith the nominees of the Employment Exchange for a vacant post without any preferential treatment being shown to them and provided the resultant vacancy arising in the event of departmental candidate being selected, is filled through the Employment Exchange.
- ii) For the purpose of determining departmental candidates, a deptt. will include all offices under it, irrespective of the location of the office where the vacancy exists.
- iii) For direct recruitment in Group C & D posts/services, the upper age limit will be relaxable upto the age of 35 years in respect of persons who are working in posts which are in the same line or allied cadres B (sic) which the service rendered in the Department will be useful for efficient discharge of the duties in other categories of posts in the same department, provided the age concession will be admissible only where an employee has rendered not less than three years continuous service in the same Department."

The fact that the age limit can be relaxed for departmental candidates and that they can also be considered for direct recruitment, is further reiterated in slightly different terms in the Annexure 'C' memorandum of the Ministry of Personnel dated 30-1-90.

The learned counsel for the applicant, therefore, submits that in the light of these general instructions, the department is bound to consider the candidature of the departmental candidates every time direct recruitment is sought to be made to the post of Forest Guard.

6. In this regard, the reply of the respondent is somewhat ambiguous. The respondents state as follows with regard to these two memoranda, referred to in para 4 of the application.

"4.F. In reply to para 4.F of the application, it is submitted that the office Memo mentioned in this para are not applicable in the present case. The quoted reference are applicable in the case where the candidatures are covered by the recruitment rules for the post in which they are being considered. In the present case the applicants are working as regular labourers. As such they are not eligible for consideration to the post of Forest Guards as per existing recruitment rules."

7. We have heard the parties. The circulars Annexure 'B' and Annexure 'C' leave no room for doubt, whatsoever, as to their intention. There is a general direction that where direct recruitment alone is provided for Group 'C' or Group 'D' posts, the department should also consider the candidature of eligible departmental candidates, provided they satisfy the eligibility conditions and it has also been provided that the age limit in such cases can be relaxed to a certain extent as mentioned in the circular. It is, therefore, clear that the department is bound to intimate the departmental candidates also when the process of selection is initiated and consider the cases of the departmental candidates who apply for the posts, in the light of the recruitment rules read with Annexure 'B' and Annexure 'C' circulars of the Department of Personnel. The applicants have an apprehension that their cases may not be considered as it is alleged to have happened in 1989.

8. In the circumstances, this OA can be finally disposed of with the declaration that the applicants should also be considered for recruitment to the post of Forest Guard if they are found eligible in the light of the Annexure R-1 recruitment rules supplemented by the Annexure 'B' and Annexure 'C' instructions of the Department of Personnel, if and when recruitment

to the post of Forest Guard is undertaken by the respondents and notice of such recruitment shall be given to them also in an appropriate manner. We declare and direct accordingly.

9. The application is disposed of as above with no order as to costs.

urby
(C.J.ROY)

Member (J).

Varu
30.4.93
(N.V.KRISHNAN)
Vice Chairman (A)