

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

(15)

O.A. No. 609/92
T.A. No.

199

DATE OF DECISION 23.7.93.

Shri B.R.Chatterji

Petitioner

Shri V.S.R.Krishna

Advocate for the Petitioner(s)

Versus

Union of India

Respondent

Mrs. Meera Chhiber

Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. J.P.Sharma, Member (J)

The Hon'ble Mr. N.K.Verma, 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 ?

JUDGEMENT

(Hon'ble Shri N.K.Verma, Member (A).)

In this O.A. the applicant ^{who} was functioning as Assistant Administrative Officer (AAO) on deputation with the Central Potato Research Station, Modipuram Distt. Meerut has assailed the appointment of respondent No.3 under the impugned order dated 6-8-90 by respondent No.1 as Assistant Administrative Officer at the Project Directorate on Cattle, Meerut on regular basis. He has prayed that the appointment order in respect of respondent No.2 Shri RB Singh be declared null and void and a fresh selection as per the provisions of the recruitment rules may be ordered giving a chance to the applicant also. He has also prayed for interim order staying the orders of respondent No.1 appointing respondent No.2

Central Institute for Research on Goats, Farah, Mathura on regular basis from 1-1-88, ~~on deputation from other~~ ~~organization~~. While the date of initial appointment of the applicant is 14-11-59 the respondent entered service on 24-4-68. They both were promoted as AAO on deputation basis. However, the applicant was shown junior in the combined seniority list of AAO wherein respondent No.2 had seniority over the applicant. The applicant has also alleged that the appointment of respondent No.2 has been in gross violation of the recruitment rules for appointment to the grade of AAO wherein a minimum of 3 years regular service as Superintendent was necessary at the time of appointment which the respondent No.2 did not possess.

3. In the counter filed by respondent No.1 preliminary objection was taken to the Hon'ble Tribunal's jurisdiction over the matter at this Principal Bench, since the matter related to an Institute located in Meerut (UP). Besides, respondents also contested the application on grounds of limitation as the cause of action arose on 7-8-90 and the representation from the applicant was replied by the Indian Council of Agricultural Research on 12-10-90. Respondents have further stated that a post of AAO in Project Directorate on Cattle, Meerut fell vacant for which there was none in the feeder line to be promoted. Therefore, a circular was issued in May 1990 to all the Directorates for filling up this post on permanent transfer basis and for which applications were invited from amongst Superintendents/Superintendents (Accounts) in the pay scale of Rs.1640-2900 with three years service in the grade. Four Superintendents including the applicant and the respondent No.2 applied for the post

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accordingly joined the post on 6-8-90. The candidature of the applicant was also considered by the Selection Committee who found the respondent No.2 a better candidate. The respondents have confirmed that the recruitment and the selection was made strictly in terms of the recruitment rules prescribed for this purpose and no injustice has been done to the applicant.

4. The case was heard by us at great length and the learned counsels for both the sides made a strenuous plea. The main plea taken by the learned counsel for the applicant was that the selection of respondent No.2 was in total violation of the rules for recruitment which was equally and stoutly denied by the counsel for the respondents.

The rules for the recruitment for the post of AAO as prescribed by the ICAR which is ^{not an attached / subordinate office} ~~an autonomous society~~ under the Govt. of India has stipulated three modes of recruitment; (1) direct recruitment (2) promotion (3) deputation/transfer. In the instant case, the post was reserved for being filled by 100% by promotion failing which by deputation from Institutes or the H.Qrs. of the Council or the State Governments/Union Territories. The mode of deputation/transfer is a mode which has given two options to the appointment authority. He could make the appointment by deputation from amongst Superintendents/ Superintendents(Accounts) with three years of service in the grade of all other Institutes or take somebody on transfer if none was available on deputation basis. The distinction between deputation and transfer here is that in the case of deputation the maximum period for deputation is limited to 3 years extendable by one more year with the approval of Director General ICAR. ^{whereas} In case of transfer

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Meerut by circulating the vacancy and asking for applications from the eligible candidates. The applicant also applied for the same and was duly considered. If he had any reservation about the legality of such a recruitment procedure, he could have made an immediate protest against this and should not have applied for that post. It is only when he failed to be selected by the Selection Committee, he came out with a protest followed by filing of this O.A. in this Tribunal. The learned counsel for the applicant has also assailed the recruitment rules as violative of Article 309 of the Constitution of India which governs the recruitment and appointment of posts under the Government. Since on being asked whether the ICAR ~~was at~~^{the} subordinate offices were covered by this Article and whether the recruitment rules prescribed by the Govt. of India were applicable to it, the counsel was not able to bring any supporting evidence. All that he was able to produce was a compendium of instructions received from the various Government Departments and Ministries which mutatis mutandis have been adopted by the ICAR and its subordinate Directorates. Hence the violation of Article 309 ~~too~~ in this matter could not be established. During arguments it was mentioned that recruitment on transfer/permanent transfer are resorted to by various Departments of the Govt. of India and in other organisations so as to obviate the need of recruitment to deputations which is always for a specific period and leads to rotation of officers from one Department to another. The respondents desired to fill up the post of AAO on a permanent basis in order to develop the new Directorate and, therefore, were not hit by any illegality in this

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category of officers to suit its administrative requirements, there could be no illegality in such an action.

4. We have considered the pleadings and the arguments of both the sides very carefully and we are not at all impressed with the contentions of the applicant and his learned counsel. The application is devoid of any merit and is, therefore, dismissed without costs.

N.K. Verma 23.7.1993
(N.K.VERMA.)
Member (A).

J.P. Sharma 23.7.93
(J.P.SHARMA)
Member (J)