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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 997/92
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DATE OF DECISION 22.01.1993

Dr.G.C. Raha & Ors. **Petitioner s**

Shri K.N. R. Pillai **Advocate for the Petitioner(s)**

Versus

Delhi Administration **Respondent**

Mrs.Avnish Ahlawat **Advocate for the Respondent(s)**

CORAM :

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

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

1. Whether Reporters of local papers may be allowed to see the Judgement ? *yes*
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ? *yes*

J.P. Sharma
(J.P. SHARMA)
MEMBER(J)

P.C. Jain
(P.C. JAIN)
MEMBER(A)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
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C.A. NO. 997/92

Date of Decision : 22.01.93

Dr. G.C. Raha & Ors.

...Applicants

Vs.

Delhi Administration

...Respondent

CORAM

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

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

For the Applicants

...Shri K.N.R. Pillai

For the Respondent

...Mrs. Avnish Ahlawat

JUDGMENT

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

The applicants have the grievance with regard to the Notification No. F-32/40/78-M&PH dt. 18.12.1991 (Annexure A1) issued by the respondents notifying ten Executive Magistrates as local health authority.

2. In this application jointly filed by the applicants, the applicants have prayed that the impugned Notification dt. 18.12.1991 (Annexure A1) be quashed.

3. For the posts of Local Health Authority in Delhi Administration for which UPSC had issued an advertisement in November, 1983, recruitment was held and the applicants were appointed by the Memo dt. 14.5.1984 on a temporary basis. But in the advertisement, it was mentioned that the posts are likely to be made permanent. The qualification for

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the post of Local Health Authority is Masters Degree in Chemistry/Bio Chemistry of a recognised University or equivalent or degree in Food Technology of a recognised University/ Institution or equivalent. Doctorate degree in Chemistry or Bio-Chemistry or Post Graduate degree in Food Technology from a recognised university or equivalent is desirable qualification. Besides teaching/research experience in Food Analysis, food composition and allied subjects is also a desirable qualification. Besides the above 7 years' experience in a supervisory capacity in a laboratory or a research organisation in analysis of food subjects or 7 years' experience in supervisory capacity in the enforcement of Prevention of Food Adulteration Act or Rules framed thereunder is also required besides intimate knowledge of food standards and food composition. The applicants have the apprehension that the notification appointing ten Executive Magistrates, who are permanent officials of Delhi Administration holding posts in lower scales ^{them} would devalue and denegate/with a view to forcing them out ultimately. Further, it is also stated that the next promotional post is that of Deputy Director (Technical) to which the applicants are eligible after 5 years of regular service and that inspite of the applicants having completed 5 years' service, they have not been given that promotion. The applicants made representation on 31.12.1991, but the representation has not been considered. Hence the present application has been filed for the relief, prayed for.

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4. The respondents contested the application and stated that the applicants have no locus standi to challenge the notification appointing 10 Executive Magistrates as Local Health Authority only to supervise the work of lifting of the samples by Food Inspectors. These Food Inspectors enjoy the power under Section 11 of the Prevention of Food Adulteration Act, 1954. It is stated that the respondents have the power under Section 13 (2E) of the Prevention of Food Adulteration Act, 1954. In order to cope up with the work of Local Health Authority, the said notification has been issued under the above Act. Even after the selection of the applicants that notification has been issued under the same provisions. It is further stated that the rules for recruitment of Local Health Authority cannot take away the power confirmed by the statute itself and the rules cannot by-pass the provisions of the Act. The application, therefore, is misconceived and has no force.

5. The applicants in their rejoinder besides reiterating the averments made in the OA, have further stated that the role assigned to the Executive Magistrates is not restricted to the supervision of the lifting of the samples, but it also includes the technical jobs, namely the selection of these samples to be lifted. The applicants in the rejoinder have also pointed out certain mistakes committed earlier by such non technical Local Health Authority as such a notification was

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issued in the case of SDMs and there was an adverse comment by Delhi High Court on the taking of samples under the supervision of such Local Health Authority. It is further stated that to make an idea for taking samples, it needs some technical knowledge and the Executive Magistrates, who have been notified and conferred power of Local Health Authority have no such technical knowledge.

6. We have heard the learned counsel for the applicants as well as the respondents. The applicants have not suffered any setback in their service conditions by virtue of the aforesaid notification conferring power of Local Health Authority on Executive Magistrates, who are permanent employees of Delhi Administration in ^a different cadre. Such appointment will not confer on them a right for promotion to the post of Deputy Director and so the applicants cannot even suggest that their chances of promotion have been minimised. The learned counsel for the respondents has rightly pointed out that the work of taking samples is being done by Food Inspectors and only supervisory work is done by the Local Health Authority and in order to cope with the work, it was necessary to issue such a notification under the powers conferred under Section 13(2E) of the Prevention of Food Adulteration Act, 1954. There is no encroachment on the rights and duties of the Local Health Authority already

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working including the applicants. The applicants, therefore, have wrong apprehensions that they shall be devalued or denegated in their status.

7. In view of the above facts, we find that the applicants have no locus standi to challenge the said notification which is in the power of the respondents to notify.

8. Also considering the case regarding objection taken to the technical qualification of the Executive Magistrates with conferred the power of Local Health Authority, the work assigned to them by the respondents as stated in the reply is only of supervision. They have only to see the work to be conducted by the team of Food Inspectors working under them. It is not that the Executive Magistrates and the local authorities themselves will be all alone left in this field of taking samples. On the face of it to judge an article of food whether adulterated or not, cannot be judged on the basis of physical appearance. Samples taken are to be analysed after being purchased from the vendors or sellers. The contention of the learned counsel for the applicants that certain errors have been committed earlier by non technical Local Health Authority (Personnel) cannot be a ground by itself to undo the provisions of the Prevention of Food Adulteration Act, 1954 where there is a specific provision to confer such power by issue of a notification.

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9. In view of the above facts and circumstances, the present application is dismissed as devoid of merit leaving the parties to bear their own costs.

J. P. Sharma
(J.P. SHARMA)
MEMBER (J) 22.1.93

P. C. Jain
(P.C. JAIN) 22/1/93
MEMBER (A)