

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. No.1571 of 1993

This 3rd day of March, 1994

Hon'ble Mr. J.P. Sharma, Member (J)
Hon'ble Mr. B.K. Singh, Member (A)

Mrs. Kamla Dhingra,
W/o Shri C.W. Dhingra,
20/3, Lodhi Colony,
New Delhi.

.....

Applicant

By Advocate: Shri V.V. Bagga

VERSUS

1. Union of India, through,
The Secretary,
Ministry of Agriculture,
Department of Animal Husbandry & Dairying,
Krishi Bhavan, New Delhi.

2. The Secretary,
Union Public Service Commission,
Dholpur House,
New Delhi.

.....

Respondents

By Advocate: Shri George Paracken, Proxy Counsel for
Shri P.P. Khurana.

O R D E R (Oral)

The applicant while working as Manager (Distribution), Delhi Milk Scheme ^{on} ad hoc basis, has filed this O.A. on 28th July 1993 having a grievance that she had made certain representations in April 1993 and July 1993 against the advertisement No.6 of UPSC requesting that she may also be considered to apply for the post of Manager (Distribution) as the post is not falling within the roster system for the reserved category. The applicant belongs to general category. She prayed for relief that ~~the~~ she may be allowed to apply for the post to the UPSC and the respondents be directed to disclose the basis on which the vacancy has been advertised as reserved for Scheduled Caste.

Contd....2/-

2. A notice was issued to the respondents who contested this application. It is stated that the post advertised by the UPSC by the aforesaid advertisement falls at the point of reservation as per the roster maintained by the respondents. The applicant being a general category candidate is not eligible for the post. The respondents have also placed before the Bench the common roster of the Delhi Milk Scheme and at point No.22 the post of Director (Distribution) is reserved for SC and one Shri K.P. Singh has joined the post on 15.11.93. It is also averred that the application be dismissed. We have heard the learned counsels for the parties. In fact this application has become infructuous inasmuch as the post which was advertised by advertisement No.6 has been filled by Shri K.P. Singh and the orders were issued on 30.11.93. The learned counsel for the respondents during the course of arguments has also filed photocopies of letters of appointment of the said K.P. Singh and that of reversion of the applicant Smt. Kamla Dhingra from the post of Manager (Distribution) to the post of Dy. Manager (Distribution) w.e.f. 15.11.93. The documents ^{has} been placed on record. The respondents' counsel has also stated at the Bar that the said K.P. Singh after serving the DMS for 1½ months has gone back to his parent department and the post has again fallen vacant, and no certain process has been started by the respondents to fill up that post.

3. We have also gone through the recruitment rules for the post of Manager (Distribution) which were notified in 1967 where eligibility with regard to age is 45 years which is relaxable in ~~fact~~ ~~case~~ case of government servants. The respondents have also filed an amendment

to the aforesaid recruitment rules issued by^a notification in February 1993 where the rules of 1967 are sought to be amended and for the government & servants the relaxation of age has been ^{given} sought & upto 5 years. The applicants counsel however, raised an objection that there is no GSR Number on this proposed amendment notified in February 1993. It is a fact, but at the same time the steps have been taken to publish the said rules and the Under Secretary, Government of India has placed his signature in token of the acceptance of the aforesaid amendment on behalf of the government. This proposed amendment has been issued by Ministry of Agriculture and it was to be published in Part-II Section 3 Section (1) of the Gazette of India. The contention of the learned counsel for the applicant is that unless rules are published they are not in force. Firstly, the amended RRs were sent to Govt. of India Press in February 1993 and one year has already passed. So it is accepted that the said amendment would have been published particularly in view of the fact that there is certain amendment also affecting the pay-scale. In any event, we find that the post has fallen vacant and steps have to be taken to fill up that vacancy.

4. The apprehension of the applicant's counsel that the respondents are trying to fill up the post by asking a further nomination of another candidate from the panel which would have been prepared in pursuance with the advertisement No.6. It is expected that the respondents will follow their own rules framed by them after due authentication of Govt. of India. If any further cause

le


Contd....4/-

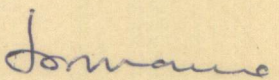
of action arises on account of respondents violating the rules, the applicant shall be free to agitate the matter at the relevant time.

5. The learned counsel for the applicant also orally requested for making certain amendments in the present O.A. The amendment can only be allowed when the nature of the OA is ^{not} materially changed or affected. In the present case the relief is only that the applicant be allowed to be considered as a candidate ~~for the post~~ in pursuance of advertisement No.6 for the post of Manager (Distribution) in the DMS. Now that process has exhausted itself after the selection of the said KP Singh who after serving the DMS for 1½ months left the post and joined his parent department. In view of this fact, we do not think that there is any action for allowing the amendment to the O.A.

In view of the above facts and circumstances the O.A. is disposed of as infructuous with the liberty to the applicant that she may agitate if any grievance occurs to her or any further cause of action arises regarding filling up of the post of Manager (Distribution) by the Delhi Milk Scheme.

No costs.


{ B.K. Singh }
Member (A)


(J.P. Sharma)
Member (J)

vpc