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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

D.A. No. 382 /93

Date of decision 30-8-95

Sh. S. P. S. Dhaka ... Petitioner
Shri B. B. Raval ... Advocate for the petitioner(s)
UDI & Ors. ... Respondent
Sh. V. S. R. Krishna ... Advocate for the respondent(s)

CORAM

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

The Hon'ble Smt. Lakshmi Swaminathan, Member (J)

1. To be referred to the Reporter or not? Yes

2. Whether it needs to be circulated to other No
Benches of the Tribunal?

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)

Member (J)

N.V.K

(N. V. Krishnan)

Vice Chairman (A)

sk

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Hon'ble Shri N.V.Krishnan, Vice Chairman (A)
Hon'ble Smt. Lakshmi Swaminathan, Member (J)

Shri S.P.S. Dhaka,
S/o Sh. Baru Singh
r/o Quarter No.573,
Sector-IV, R.K.Puram,
New Delhi-110022

(By Advocate Shri B.B.Raval)

..Applicant

vs

1. Union of India
through the Secretary,
Ministry of Agriculture
and Cooperation,
Govt. of India,
Krishi Bhavan, New Delhi.

2. The Secretary,
Union Public Service Commission,
Govt. of India, Dholpur House,
Shah Jehan Road,
New Delhi.

3. Shri S.K.Dalal,
Senior Extension Officer,
Directorate of Extension,
Ministry of Agriculture,
Department of Agriculture
and Cooperation,
Govt. of India,
West Block No.8, R.K.Puram,
New Delhi-110066

(By Advocate Shri V..S.R.Krishna)

..Respondents

O R D E R

(Hon'ble Smt. Lakshmi Swaminathan, Member (J))

This application was taken up for disposal together with D.A. 2280/93 in which the parties are the same. The grievance of the applicant in this application is against the order dated 3-12-1992 (Annexure-A) promoting one Sh.S.K.Dalal, Extension Officer (E.O.) to the post of Senior Extension Officer (S.E.O.) in the pay scale of Rs. 3000-4500 from the date he takes over charge of that post i.e. 3.12.1992 vide order dated 23.12.1992(Annexure-B). He is also aggrieved that his representation dated 14.8.1992 (Annexure-C) has not been disposed of by the respondents.

2. The brief facts of the case are that the applicant

who is a graduate in Agriculture is a direct recruit and appointed as Assistant Extension Officer (A.E.O) on 19th March, 1982. One grievance he had was that although he was senior to one Shri S.P.Kapoor, as Assistant Extension Officer he had not been duly considered for the promotion post of Extension Officer which was the subject matter of OA-2280/93. This O.A. has been disposed of by order of even date and a copy of the order has also been placed in this file.

3. The second grievance of the applicant which is the subject matter in issue in this O.A. is regarding the qualification necessary for the next promotion post of Senior Extension Officer (S.E.O) in the pay scale of Rs. 3000-4500. According to the Recruitment Rules of 1971 (Annexure-A-9, ¹⁹⁷¹ herein after referred to as the 1971 Rules) which was in existence at the time the applicant was recruited as A.E.O in 1982, the educational qualification for promotion to the post of S.E.O was a Degree in Agriculture even though for a direct recruit a Master's Degree was required. The 1971 rules were amended by a notifications dated 24-5-84 (Annexure-A 10, herein after referred to as the 1984 Rules) whereby the educational qualifications prescribed for the direct recruits were also made applicable to the promotees, which included a Master's Degree in Agriculture, Agriculture Extension/Sciences or equivalent. A note below this amendment provides that Extension Officer's working on regular basis on the date of commencement of these rules and possessing degree in Agriculture from a recognised University or equivalent shall be eligible for promotion. The applicant's contention is that while under the 1971 rules, an Extension Officer who is only a Graduate was eligible to be promoted as a S.E.O, under the 1984 rules such an officer is debarred from being considered, as

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the qualification required now for promotion is a Masters Degree in Agriculture or equivalent with 7 years regular service in the grade.

4. In the representation submitted by the applicant and also urged by the learned counsel, Shri Raval, the provision of similar educational qualifications for employees as prescribed for Direct Recruits is in violation of the Department of Personnel and Training memorandum dated 18.3.1988. He also claims that under the Department of Agriculture and Cooperation i.e. respondent No.1, there are a number of other promotional posts in the same scale of pay as SEO, for example Assistant Commissioner(Creps) where a person possessing a degree in Agriculture is eligible to be promoted, whereas in the case of Senior Extension Officers, the Recruitment Rules of 1984 provides minimum qualification of a Masters Degree. Shri Raval also referred to a table (which has been placed on record) giving the list of posts in the Directorate of Extension, Ministry of Agriculture wherein in the same pay scale of Rs. 3000-4500 only a graduate degree was prescribed as against post-graduate degree prescribed in the case of Senior Extension Officers. Shri Raval has in particular referred to the posts at Sl. No. 3 of the table-Director Extension; serial No.6- Joint Director (Women's Programme (WP); sl. No. 7-Deputy Director(Admn) and sl. No. 17- Extension Officer where even a non agriculture graduate is eligible to be promoted. The learned counsel for the applicant, therefore, submits that by prescribing different qualifications for the posts in the same grades this was apparently discriminatory. He further submits that the 1971 Rules could not have been amended in 1984 to affect his Fundamental Right for promotion, as the applicant was already in service, by prescribing a MSc degree which is the same qualification as for a Direct Recruit, which is

against the Deptt of Personnel & Training guidelines. He also relies on CSIR Vs. K.C.G. Bhat (1989) (3)SLJ 464(SC) where the Supreme Court had observed that there cannot be any modern management, much less any career planning, manpower development etc. which is not related to a system of promotions. He therefore, urges that the Recruitment Rules of 1984 may be quashed and a direction be given to the Respondents to hold a Review DPC for considering the applicant for promotion to the post of S.E.O.

5. The Respondents have filed a reply disputing the above claims. Shri V.S.R.Krishna, Learned Counsel for the Respondents points out that the applicant does not have the minimum educational qualification prescribed by the 1984 Rules. He submits that the 1971 Rules have been amended in 1984 and the applicant is barred by limitation to challenge the validity of the amended Rules as the OA has been filed only in 1993. He further submits that at the time when the 1984 amended Rules were promulgated the interest and rights of all Extension Officers working at the time were taken into account and they were protected. That is why the note has been included in the 1984 Rules providing that all Extension Officers working on regular basis on the date of commencement of the Rules and possessing a degree in Agriculture or equivalent qualification are eligible for promotion. In 1984 the applicant was only an AEO and hence he was not within the zone of consideration for promotion as S.E.O. He could if he chose obtain the necessary qualification of post-graduate degree in Agriculture or equivalent to be eligible for promotion as prescribed by the 1984 Rules. Shri Krishna, therefore, submits that there was no question of any discrimination in the Rules against the applicant.

6. Regarding the table relied upon by the learned counsel for the applicant, Sh. Krishna submits that there are two types of posts namely, Administrative and Technical. The post of SEO is a technical post and not an administrative one and, therefore, the table relied upon by the applicant to show that certain other qualifications are required in respect of posts in the Administrative side, which may carry the same scale of pay as SEO's cannot help the applicant. He submits that DOPT guidelines dated 18.3.88 have also been complied with while

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formulating the 1984 ~~Rules~~ Rules. In particular, he draws attention to the following provisions of the guidelines, namely, that in the case of Scientific and Technical posts the educational qualification in the case of promotion to posts, prescribed for direct recruits, should be insisted upon in the interest of Administrative efficiency, atleast in the case of Senior Group 'A' posts in the scale of Rs. 3000-4500 and above (page 35 of the paper book). Learned counsel submits that having regard to these guidelines, therefore, and the functional requirements for the promotion post of SEO, there was no discrimination or any other in-Validity in the amended 1984 Rules. He has also relied on the judgement of this Tribunal in Suraj Singh & Others Vs. Union of India & Others in DA No. 1680/94 decided on 10.11.1994. (A copy of which is on record.) The learned counsel submits that the 1984 Rules are based on intelligible differentia based on the requirements of the job and bearing nexus to the objective, namely to achieve Administrative efficiency. Hence he submits that the 1984 Rules are not discriminatory and are valid. In any case, at the time when the 1971 Rules were ~~amended~~ replaced by the 1984 Rules, the applicant was only an AEO, which is a feeder grade for promotion to the post of Extension Officer and not to the next higher promotion post of SEO. Therefore, he cannot have any grievance regarding the amendment of the essential educational qualifications in regard to the eligibility conditions for promotion to the next higher post for which he was not at all in the consideration zone.

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7. We have carefully considered the pleadings, the arguments of the learned counsel for both the parties and record.

8. The schedule to the Recruitment Rules for Senior Extension Officers, 1984 (Annexure A-10) has made the essential educational qualifications applicable to direct recruits, namely, Master's degree in Agriculture/Agriculture Extension/any of Agriculture Sciences from a University or equivalent, applicable also to the 33 $\frac{1}{3}$ quota of the posts reserved for promotion. This was not the case under the Recruitment Rules for the post of SEO's, 1971 (Annexure A-9). Under the 1971 Rules in the case of promotion, persons who are Extension Officers with 5 years service in the grade and possessing degree in Agriculture were eligible to be considered for the post of SEO. Admittedly on the date when the 1984 Rules came into force, the applicant was only working as AEO and was not in the feeder grade for the promotion post of SEO.

9. The Department of Personnel & Training Memorandum dated 18.3.1988 has been relied upon by both the parties. The memo provides as follows:-

"It should precisely be stated whether age and educational qualifications prescribed for direct recruit should also apply in the case of promotees. Unless there are any specific grounds, the age limit prescribed for direct recruits are not insisted upon in the case of promotees. Regarding educational qualifications, these are not generally insisted upon in the case of promotion to posts of non-technical nature ; but for

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Scientific and technical posts these should be insisted upon, in the interest of administrative efficiency, at least in the case of Senior Group 'A' posts in the scale of Rs. 3000-4500 and above."

10. Shri Raval referred to the classification of the post of S.E.O given in the schedule to the 1984 Rules where it is mentioned that it is a "General Central Service Group 'A' gazetted" to show that this is not a technical post. Rule-2 of the 1984 Rules read with the column-3 of the schedule deals with the classification of the post of S.E.O. Rule-3 of the Central Civil Services (Classification, control and appeal) Rules 1965 provides that these Rules shall apply to every Government servant. Part-II of these Rules deals with the classification of services. Rule-4 of the 1965 Rules has classified the Civil Services of the Union into the four following Groups namely;—

- i) Central Civil Services, Group A
- ii) Central Civil Services, Group B
- iii) Central Civil Services, Group C
- iv) Central Civil Services, Group D

Rule-7 of these Rules provides that Central Civil posts of any class not included in any other Central Civil Service shall be deemed to be included in the General Central Service of the corresponding class and a Government servant appointed to any such post shall be deemed to be a member of that Service unless he is already a member of any other Central Civil Service of the same class.

11. Therefore, having regard to the aforesaid provisions of the Central Civil Services (classification, control and appeal) Rules, 1965, the classification of the post of SEO is with reference to the classification given in those rules. This does not relate to the question whether the post is of a scientific or technical nature as distinct from the post of a non-technical nature for which the Deptt of Personnel & Training

Memorandum quoted above refers. We are here considering the 1984 Rules in which taking into account the DOPT Memorandum of 18-3-1988, the same educational qualifications which were prescribed for direct recruits have been adopted in the case of promotions to SEOs also. There is no doubt that the post of S.E.O. is a Senior Group 'A' Gazetted post in the scale of Rs. 3000-4500. The DOPT guidelines have prescribed in the Memorandum of 18-3-1988 that for technical posts, such educational qualifications as are prescribed for direct recruits should be insisted upon in the case of promotion posts also in the interest of administrative efficiency. In the light of the DOPT Memorandum, we, therefore, see no illegality in the 1984 Rules prescribing the same educational qualifications for direct recruits and promotees to the post of S.E.O. which is a Senior Group 'A' technical post.

12. Following from the above, we are also unable to agree with the contention of Sh. Raval, that all posts in the Directorate of Extension carrying the same pay scales of Rs. 3000-4500, must prescribe the same qualification for the feeder grade, namely, only a graduate degree and not a post-graduate qualification. Besides, in the table referred to in para-4 above, the posts mentioned at serial Nos. 3,6 and 17 are in different grades. The particular rules which prescribe the educational qualifications for the various posts in the Table (from which this table has been compiled) have not been challenged and it is not possible to lay down any such general requirement that all Rules must prescribe similar qualifications for posts in the same pay scales irrespective of the nature of the job and the purpose for which it has been created and other relevant factors. Merely because in some other posts carrying the same or similar pay scales certain other qualifications have been prescribed, which is less than a post-graduate degree, it does not amount to discrimination against the SEOs in the 1984 Rules. It is needless to say that the

Recruitment Rules for various posts will have to prescribe suitable eligibility conditions/qualifications depending on the precise job content for each post and the applicant's argument that there is discrimination on this count is baseless and is rejected. In Suraj Singh & Others v. UOI and Ors (OA No.1680/94) (Supra), this Tribunal had referred to the decision of the Supreme Court in V.K.Sood, vs. Secretary Civil Aviation (Civil Appeal No.2849/93) decided on 14.5.1993 wherein the Supreme Court held as follows:-

"It is for the rule making authority, which has the assistance of the experts etc. or the legislature to regulate the matter, prescribe the qualifications etc. This is not the province of the Court to trench into and prescribe qualifications in particular when the matters are of a technical nature."

We respectfully agree with the reasons given in the above case, following the observations of the Supreme Court that there is no doubt that it is the rule making authority i.e. the Government who are authorised to prescribe the method of recruitment educational and other qualifications for appointment to a post or service under the State taking into account the administrative exigency and public interest. We find no legal infirmity in the 1984 Rules which prescribes the same qualifications for promotion as has been laid down for direct recruits as there is no discrimination against SEOs or violation of any relevant Rules/guidelines.

12. Before concluding, it is also pertinent to note that at that time when the 1984 rules came into force, the applicant was not even in the feeder cadre of E.O. for promotion to S.E.O. The note appended to the 1984 Rules had carved out an exception to the rule to provide that Extension Officers working on regular basis on the date of commencement of the rules and possessing degree in Agriculture,

as distinct from a Master's degree, shall be eligible for promotion, thereby protecting the interest of E.Os who were in position on the date of coming into force of the rules. Even taking into account the applicant's grievance in OA 2280/93 and our order passed therein, the Review DPC can at best consider his case for promotion as E.O. from the retrospective date when his junior Sh. S.P.Kapoor was promoted, viz 3rd July, 1985. By this date the 1984 Rules having already come into force, and the applicant would only be working ⁱⁿ the still lower grade of A.E.O., and not in the feeder category of E.O. Therefore, at best it can only be said that his opportunity for promotion to the post of S.E.O. has receded temporarily because of the impugned provisions in the Rules requiring a higher qualification because he can still be considered for the post of S.E.O. if he acquires the Master's degree in the meantime. The amendment in the Rules, therefore, does not give him a right to challenge the same on the ground that his fundamental right has been affected. It is well settled law that no one has a right to get promotion but only for being considered for promotion, if otherwise eligible. The 1984 Rules do not in any way bar the applicant from being considered for promotion to the post of S.E.O. provided he has the necessary qualifications. In this view of the matter, the case of CSIR V.K.G.S.Bhat (Supra) will not also assist him as this is not a case where the applicant has been deprived of career advancement or promotions. In the result, we find that the 1984 Rules are validly made in the public interest in administrative exigency and do not violate any norms or guidelines calling for any interference in the matter.

13. We find no merit in this O.A. and it is accordingly dismissed. No costs.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member(J)

N.V.Krishnan
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(N.V.Krishnan)
Vice-Chairman(A)