

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD.

1. O.A. No. 1390 of 1988.

Vijay Prakash YadavApplicant.

Versus

Union of India & othersRespondents.

Connected with

2. O.A. No. 1389 of 1988

BadshahApplicant.

Versus

Director & othersRespondents.

Hon'ble Mr. Justice U.C. Srivastava, V.C.

Hon'ble Mr. K. Obayya, A.M.

(By Hon'ble Mr. Justice U.C. Srivastava, V.C.)

As similar questions of fact and law are involved in the aforementioned cases and the reliefs sought for by the applicants are the same, we are going to dispose of these cases in the common judgment.

2. Failing to get promotion on the post of T.I. (Lab-Technician), the applicants have approached this tribunal praying that it may be declared that they are entitled for promotion and the respondents may be directed to promote them on the posts of T.I. (Lab-Technician) with all the benefits and the selection for direct recruits initiated vide Circulars dated 14.12.87 and 5.1.88 for filling three posts of T.I. (Lab-Technician) may be quashed.

3. The applicant Vijay Prakash Yadav starts service as a Class IV Staff in the Indian Veterinary Research Institute, Izatnagar vide order dated 6.1.71. Applicant Badshah also starts his service as Class IV Staff vide order dated 24.2.69. According to them, although they were appointed as Weighmen in Nutrition

Feed Technology Division but they were given work of Lab-Attendants in support of which the applicant Vijay Prakash Yadav has filed the certificates of Project Coordinator dated 19.7.76, 13.1.88 and 5.12.88.

The applicants represented for change in their designation as Lab-Attendant which was recommended by the Head of Department on 19.5.87 and that the designation of the applicants was changed as Lab. Attendant on 23.6.87. In the gradation list, the applicants' names find place as Lab Attendants. The next promotional post is T.I. (Lab Technician).

4. The grievance of the applicants is that in the year 1985, eight posts of T.I. (Lab Technician) were filled in by direct recruitment but no post was allotted for the promotees. This year also vide circulars dated 14.12.87 and 5.1.88 three posts of T.I. (Lab Technician) to be filled in by direct recruitment had been advertised and interview for the same was to take place on 19th and 20th December, 1988. In view of their protest, the applicants were allowed to appear in the written test but they were not called for interview. In the Handbook of Technical Services, the Indian Council of Agriculture Research Rule 7.1 regarding promotion reads as follows;

"7.1- 20% of vacancies in Grade T-I of the category I may be filled by the persons in the supporting services possessing qualification prescribed for Category-I."

5. It has been stated that in all the previous selection only viva-voce was held and no written test is provided but this time written test has been taken and the Lab. Attendants have been deprived of the

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promotional post as 20% of posts are to be filled in by promotion.

6. The respondents have opposed the claim of the applicants and have also disputed certain facts which have been stated by the applicants. Minimum five years of working experience as Lab... Attendant is necessary for being eligible consideration for promotion to the post of T-I(Lab,Technician) from supporting services. As the applicants did not fulfill the minimum requirements and as such they were not eligible for promotion to T.I.(Lab,Technician) as departmental candidates as the post of S.S.Grade II was converted into the post of Lab.Attendant only on 23.6.87. In the year 1985, eight posts of T.I. (Lab,Technician) were to be filled in from the departmental candidates possessing the prescribed qualification for which an advertisement was issued. 24 applications were received out of which, 12 were screened out and were not called for interview and the remaining 12 were called for interview but only eight candidates were selected and the applicants were not found suitable for selection. In the year 1988, three posts of T.I.(Lab,Technician) were advertised out of which one was reserved for scheduled caste for being filled in by direct recruitment and by typing error, the educational qualification were shown as B.Sc/M.Sc but were corrected by issuing corrigendum. These posts were to be filled in against 80% quota by direct recruitment but the departmental candidates who possessed the requisite qualifications could also apply and as a matter of fact 153 applications were received out of which 125 candidates including the applicants were asked to sit in the written

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test which was prescribed by the Screening Committee and which was duly approved by the Director of the Central Avian Research Institute. Only 27 candidates passed the written test who were called for interview by the Selection Committee. As the applicants applied for the post of T-I (Lab. Technician), they were bound to sit in the written test in which they could not qualify, that is why they were not called for interview. These posts were to be filled in by 80% by the Direct recruitment and not by 20% promotion quota and as such the applicants' claim that they should have been promoted, is not sustainable. According to the respondents, earlier it was a case of promotion and only departmental candidates were allowed and a particular procedure was adopted and in that view it was not a case of direct recruitment from among 80% quota. As a matter of fact much more than 20% vacancies in the Grade T.I. have been filled by the persons in supporting services. In view of the fact that present strength of Lab. Technician is 12 out of which 7 are promoted as against 20% vacancies while five persons are direct recruits including the three selected candidates. The averments, made by the respondents that an advertisement was made that 80% vacancies were reserved for direct recruitment and no post was allotted to be filled in by the promotion, have been refuted and as a matter of fact, it appears that although an advertisement was made but outsiders were not allowed and only departmental candidates were allowed and promotion was to be made on merit and their merit was adjudged in this manner. In these circumstances, it cannot be said that three appointments, which have been made, as a matter of

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fact, should have gone in promotional quota and this direct appointment was governed by 80% posts which are meant for direct recruitment and even if the applicants' contention is accepted that the earlier appointment was also a direct quota, the applicants cannot claim appointment in that quota on the basis of promotion. More so when they themselves appeared in the said examination in which they could not succeed they cannot now challenge the same on this ground. Accordingly, we do not find any ground to grant any reliefs so claimed by the applicants and the application deserve to be dismissed and they are accordingly dismissed. No order as to costs.

Let a copy of this judgment be placed on the file of O.A. No. 1389 of 1988.

B. Bhagat
MEMBER (A)

V. V.
VICE CHAIRMAN.

DATED: 23rd Feb 1993.
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