

CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH AT NAINITAL

Nainital this the 17th day of April, 2001.

C O R A M :- Hon'ble Mr. Justice R.R.K. Trivedi, V.C.
Hon'ble Mej. Gen. K.K. Srivastava , A.M.

Original Application No. 691 of 1995

With

Original Application No. 692 of 1995

1. Dharam Singh a/a 40 years. S/o Sri Bhuru Ram
R/o 48, Smith Nagar, P.O. Prem Nagar, Dehradun.
2. S.K. Agrawal a/a 30 years. S/o Sri Satya Pal Agrawal
R/o 48, Smith Nagar, P.O. Pram Nagar, Dehradun.

.....Applicants in O.A 691/95

1. Sunil Chandra a/a 29 years. S/o Sri M.N. Dangwal
R/o B/71, New Forest. Forest Research Institute,
Dehradun. Presently working as Senior Technical
Assistant (Photo Technician)
2. A.K. Saxena a/a 30 years. S/o Sri J.P. Saxena
R/o C/o B/71, New Forest. Forest Research Institute,
Dehradun. Presently working as Senior Technical
Assistant (Photo Technician).

.....Applicants in O.A 692/95

Counsel for applicants in both cases:- Sri K.C. Sinha

V E R S U S

1. Union of India through the Secretary, M/o
Environment & Forests Paryavaran Bhawan, C.G.O.
Complex, Phase-II, Lodhi Road, New Delhi-110003.

(To be kept in OA No 692/95 only)
For Ready Reference

2. Director, Forest Survey of India
Kalagarh Road, Dehradun, 248195.

3. Joint Director, National Forest Data Management Centre,
Forest Survey of India, Kaulagarh Road,
Dehradun - 248195.

.....Respondents in both O.As.

Counsel for respondents :- Km. Sadhna Srivastava

O R D E R (Oral)

(By Hon'ble Mr. Justice R.R.K. Trivedi, V.C.)

These applications have been filed under section 19 of Central Administrative Tribunal's Act, 1985. Facts giving rise to these applications are that applicants joined the Forest Survey of India as Senior Technical Assistant (S.T.A) (Cartography) between 1988 -1990. Prior to that they served under the Forest Survey of India or ^{subsid} ~~beside~~ to aforesaid organisation. The next promotional avenue ~~was~~ open for them ^{was} to the post of ^{Assistant} Director. When the applicants joined the post, the minimum qualification to the post of Assistant Director was 5 years service as S.T.A. However, the Government of India w.e.f 05.06.93 amended the rules regarding promotion to the post of Assistant Director. The new rules which came in force on 05.06.93 were ^{the} The Forest Survey of India (National Forest Data Management Centre- Group 'A' posts) ^{Recruitment} Recruitment rules, 1993. In the said amended rules of 1993, the qualification for the post of Assistant Director ~~has~~ ^{is} provided that one must possess B. Sc. Degree in Physics/Chemistry/Geology/ Geography/Botany/Forestry Cartography. It also required 8 years experience as S.T.A, which, it has been stated that has been reduced to 7 years subsequently. The grievances of the applicants ^{are} ~~are~~ that by prescribing new academic qualification and experience, they have been deprived of the

chance of promotion to the post of Assistant Director.

They approached the Principal Bench of this Tribunal and

filed O.A No. 441/94. All the four applicants in the

^{present} ^{before} ~~aforesaid~~ O.A were/ The Principal Bench. The Principal

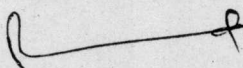
Bench dismissed the O.A with the following order :-

" We have heard the learned counsel for the applicants. The plea made in the O.A is not tenable. It is open to the Government of India to change the Recruitment Rules. These Recruitment Rules will be prospective in nature. No claim has been made in the O.A that, prior to the notification of the revised Rules (annexure A- 1) w.e.f 05.06.93, the applicants were fully qualified to be eligible for consideration under the Recruitment Rules, 1985 (annexure A- 4) and that there were vacancies to which promotion should have been made on the basis of those rules. It is only in such circumstances, that the question of applying the old rules would ^{and u} ~~appl.~~

In the circumstances, we find that this application is without any merit and accordingly dismissed. "

In the aforesaid O.A before P.B, applicants had prayed for following reliefs :-

- " i) That all the Senior Technical Assistants who who have joined the Forest Survey of India earlier to 5th June, 1993 be governed for their promotions in Forest Survey of India to the next cadre as Asstt. Director based on the Forest Survey of India (Group 'A' and 'B' posts (Recruitment Rules, 1985;
- ii) That all the Senior Technical Assistants who have joined the Forest Survey of India on or after 5th June, 1993 be governed for their promotions in Forest Survey of India to the next cadre based on the Forest Survey of India Group 'A' posts Recruitment Rules 1993;
- iii) That the Senior Technical Assistants who have



completed five years of regular service, be considered for promotion to the next cadre as Asstt. Director against the existing vacancies once they have completed five years of service. "

In the present O.As applicants have prayed for the following reliefs :-

- "a) direct the respondents to modify the column No. 4(9) and 4(12) of the schedule annexed to the Forest Survey of India (National Data Management Centre Group 'A') Rules 1993 to the extent that eligibility for promotion to the post of Asstt. Director should be restricted only for the Senior Technical Assistants in NFDMC and not for any other organisation ;
- b) The respondents may be directed to delete the essential educational qualification which is prescribed for promotion on the post of Asstt. Director as no educational qualification can be imposed while filling the post on the basis of promotion;
- c) The common seniority list circulated by letter dated 31.05.95 may kindly be set aside and a direction may be issued that separate seniority list of Senior Technical Assistants of National Forest Data Management Centre should be issued and maintained as if it was being done prior to issuance of the letter dt. 31.05.1995;
- d) The order dt. 27.06.95 and 10.07.95 may also be set aside;
- e) Issue any other direction as this Hon'ble Tribunal may deem fit and proper; and
- f) award cost of the petition. "

2. Comparing the reliefs and narration of facts it is clear that still the grievance of the applicants is against ^{change} ~~inherence~~ of the academic qualification to B.Sc which they

P —————

did not possess. The applicants availed the opportunity to challenge the Rules by filing O.A. The legal position is well settled. The rule can not be allowed to be ^{challenged} ~~claimed~~ in piece-meal. Before the P.B also the grievance of the applicants was that chance of their promotion to Asstt. Director have been ^{diminished} ~~diminished~~ by changing experience and educational qualification. The challenge was not accepted. In our opinion, the same relief can not now be permitted to be claimed by modulating the reliefs in different words. Learned counsel for the applicant has ^{relied} ~~relied~~ before us ^{on} the judgement of Hon'ble Supreme Court in case of Dr. (Mr.) O.Z. Hussain Vs. U.O.I & Ors, 1991 (SCC) (L&S) 649 and S.P. Shivprasad Pippal Vs. U.O.I & Ors, 1998 (SCC) 1119. We have considered the judgement of Hon'ble Supreme Court and also submission of learned counsel for the applicants. However, we find that this Tribunal should not interfere in the matter once the same relief has been refused by the Principal Bench.

3. Learned counsel for the respondents however, through her submission, invited our attention towards the letter dated 05.01.96 and submitted that the issue regarding educational qualification ^{has} ~~have~~ been referred to the Government and it is under active consideration. In para 14 of the SCA it has been stated that the matter of removing the existing bar of B.Sc educational qualification in the recruitment Rules for promotion to the post of Asstt. Director has already been taken up with the competent authority vide letter dt. 05.01.96.

4. In view of the aforesaid ^{reasons} ~~averments~~ we decline to interfere, but at the same time we hope that the matter shall be considered expeditiously and a decision shall be taken at the earliest keeping in view the observation of the Hon'ble Supreme Court in para- 7 of the judgement of Dr. (Mr.) O.Z. Hussain (Supra). Subject to aforesaid observation both O.As are disposed of. ^{No costs.}

Sd/-
Members (A)

Sd/-
V.C.

V.Ly
08/5/01