

[Open Court]

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
BENCH, ALLAHABAD

THIS THE 02nd DAY OF MARCH, 2012

ORIGINAL APPLICATION NO. 496 OF 2007

U/s 19, Administrative Tribunal's Act, 1985

Present:-

HON'BLE MR. JUSTICE S. C. SHARMA, MEMBER-J

HON'BLE MS. JAYATI CHANDRA, MEMBER-A

T. H. Farooqui, s/o Late M. N. Farooqui, aged about 49 years, r/o C-592/2, G.T.B. Nagar, Kareilly Scheme, Allahabad.

.....Applicant

Versus

1. Union of India through Secretary Ministry of Personnel, Public Grievances & Pensions, Department of Personnel & Training, govt. of India, New Delhi.
2. Secretary In charge, Ministry Personnel, Public Grievances & Pensions, [Department of Personnel & Training], Staff Selection Commission, Block No.-12, C.G.O. Complex, Lodhi Road, New Delhi - 110003.
3. Chairman, Union Public Service Commission, Dholpur House, New Delhi.

.....Respondents

Advocate present for the applicant:-

Sri O. P. Gupta

Advocate present for the respondents:-

Sri Saurabh

ORDER

Instant O.A. has been instituted for the following reliefs:-

"8-Relief Sought- In view of the facts and grounds mentioned above, it is prayed before the Hon'ble Court to be pleased to declare that applicant is eligible is to appear in the aforesaid selection and the respondents have deprived him arbitrarily from appearing in the said selection by not sending Call Letter to him within

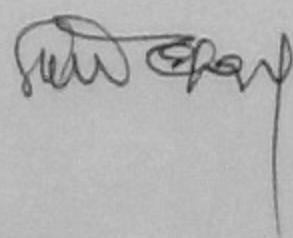
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the reasonable period and thus caused irreparable loss to the applicant for no fault of his own by not permitting him to appear in the said selection.

Any other order or direction to which this court may deem fit and proper in the facts and circumstances of the present case may also be passed."

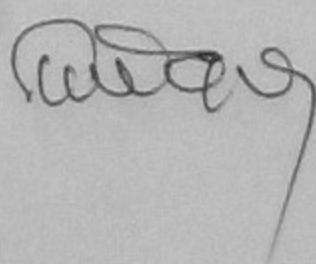
2. The pleadings of the parties may be summarized as follows:-

It has been alleged by the applicant that he had been working as Assistant Director (Leather) in the office of the Small Industries Service Institute, Govt. of India, Ministry of Small Industries. An advertisement was issued by the Staff Selection Commission, New Delhi for filling up six posts of Dy. Director in pay scale of Rs.10,000-15,200/- in the Regional Offices of the Staff Selection Commission at Kolkatta, Guwahati, Mumbai and Allahabad on deputation basis. Certain eligibility criterion was provided in the advertisement for the officers of the Central Govt. and the eligibility requires that the officers (i) holding analogues post in the scale of Rs.10,000-15,200/- or five years service in the scale of Rs.8,000-13,500/- or with eight years service in the scale of Rs.6500-10,500/- and possessing three years experience in the administration in a supervisory capacity. Age limit was 56 years as on closing date of submission of the application. The applicant was at that time was in the scale of Rs.10,000-15,200/- and is fulfilling the criterion and he submitted Bio-data along-with covering letter through proper

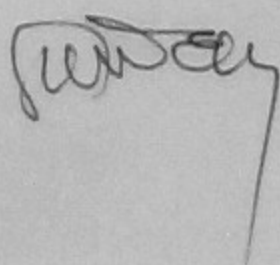


channel on 10th February, 2006 at the address mentioned in the advertisement. That the applicant remained waiting for call, but no call was received by him, whereas, the date for interview was fixed on 14th May, 2007. The applicant tried to enquire about the details that as to why he has not received the call let from the respondents, whereas, applicant was fulfilling all the requisite qualifications. That no reasons were communicated to the applicant for not issuing call letters. As the applicant was fulfilling the requisite qualifications hence he was also entitled to be called for interview.

3. Respondent Nos. 01 and 02 contested the case filed Counter Reply and the denied from the allegations made in the O.A. It has further been alleged that six posts of Dy. Director in the Pay Scale of Rs.10,000-15,200/- in the Regional office of the Staff Selection Commission, Kolkatta, Guwahati, Mumbai and Allahabad, on deputation basis and the notification was issued in the employment news dated 28th January, 2006 to 03rd February, 2006 and the last date for receipt of the application was 28th March, 2006. The application was routed through proper channel. The eligibility criterion was provided as has been stated by the applicant in the O.A., hence now it is not necessary to repeat the same. The Bio-data of 14 persons was received by the Commission including of the applicant. The application of the applicant was not accompanied



with the copies of his A.C.R., Cadre Clearance, Vigilance Clearance and Integrity Certificate, which was the pre-requisite condition as per the Advertisement. It was also provided that incase the application is not containing all the requisite certificates then the application shall be rejected. It was also provided in the advertisement that the period spent in 'Administration' in a supervisory capacity must be mentioned. The applicant mentioned that he discharged the duties of Assistant Director (Admn.)/Drawing and Disbursing, Head of the Office for C&D Staff from June, 2002 to October, 2003 which is approximately 17 months only and as per recruitment rules for the post the applicant was not possessing requisite three years experience in Administration in Supervisory capacity, therefore, the application of the applicant was found in the order and the applicant was not qualified for the post and hence he was not called for Interview by U.P.S.C. on 14th May, 2007. However, in pursuance of the order passed on 11th May, 2007 applicant was permitted to participate in the Interview on 14th May, 2007 on provisional basis, but the result has been kept in abeyance. As the applicant was not fulfilling the requisite qualification hence he is not entitled for selection ^{as 2} and ₁ he is not entitled for selection and rightly call letter was not sent to him. Whatever has been alleged in the O.A. is misconceived and the O.A. lacks merits and liable to be dismissed.



4. Short Reply has also been filed on behalf of the respondents No.3 and whatever, has been alleged by Respondent Nos. 01 and 02 the same has been repeated by the respondent no.3. Rejoinder Affidavit has also been filed on behalf of the applicant and he reiterated the facts which have been alleged in the O.A. Moreover, one Misc. Application was also moved and along-with Misc. Application certain information received under the Right to Information Act has also been annexed which ^{are 2} Annexure-1 & 2 of _A the Application.

5. We have heard Sri O.P. Gupta, Advocate for applicant and Sri Saurabh, Advocate for respondents and perused the entire facts of the case.

6. Admittedly, six posts of Dy. Director in pay scale of Rs.10,000-15,200/- in the Regional Office of the Staff Selection Commission were advertised and these posts were on deputation basis. Admittedly, in the notification issued by the respondents certain eligibility criteria have also been provided which is as follows:-

- "(a)(i). Holding a analogous posts on a regular basis; or
(ii). with five years regular service in posts in the scale of Rs.2200-4000 (revised to Rs.8000-13,500/-) or equivalent; or*

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- (iii). *with eight years regular service in posts in the scale of Rs.2000-3000/- (revised upto Rs.6500-10,500/-) or equivalent; and*
- (b). *Possessing three years experience in administration in a supervisory capacity."*

7. It has been alleged by the respondent Nos.01 & 02 that as the applicant was not possessing requisite qualification as provided in the notification hence he was not called for Interview. It is a different matter that applicant was permitted to participate in the Interview as per Interim Order passed by the Tribunal, hence we have to ascertain that as to whether applicant was possessing the requisite qualification provided in the notification or not? Admittedly, on the relevant period the applicant was holding the analogous post in the pay scale of Rs.10,000-15,200/-, but more qualifications were also required as per the notification. It has been provided in Clause 'B' of the eligibility of the notification that the candidate must possess three years experience in administration in the supervisory capacity and it has been alleged by the respondents that the applicant was not possessing this qualification of three years experience in administration in a supervisory capacity and respondents alleged that as per information furnished in the Bio-data applicant has worked as Assistant Director (Admn.)/Drawing and Disbursing, Head of the Office for C&D Staff from June, 2002 to October, 2003 which is approximately 17 months only and on

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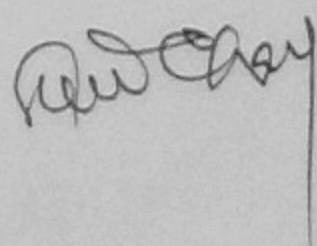
this ground the applicant was not eligible for the post as per advertisement and that is why 'Call Letter' was not issued to him.

8. It ^{is} ~~has~~ also ^{been} ~~been~~ material to state that the Bio-data furnished by the applicant along-with the application has also been annexed and according to this Bio-data Column No.11 *"period spent in Administration in a supervisory capacity [please indicate the post held and duration]"* and it has been mentioned *Discharged the duties of Assistant Director (Admn.)/ Drawing and Disbursing, Head of the Office for C&D staff from June, 2002 to October 2003."* As per the Bio-data submitted by the applicant himself the contention as alleged by the respondents appears correct and from this fact only inference can be drawn that the applicant only possess 17 months experience in Administration in Supervisory capacity, whereas, as per notification minimum three years experience in Administration in Supervisory capacity was required. According to his own Bio-data furnished by the applicant it is evident that applicant was not possessing requisite qualification of three years experience in Administration in Supervisory capacity, hence it can safely be said that the applicant was not eligible to participate in the selection, hence the respondents were justified in not issuing the 'Call Letter'. If the applicant has been permitted to participate in the selection by virtue of a judicial order passed by this Tribunal then it will not been taken into consideration that it is a

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'Condition Precedent' in order to participate in the selection. That the applicant must possess the minimum requisite qualification required as per advertisement and we have decided above that the applicant has not possess requisite qualification for the post because one is required to possess all these qualifications and not only one and three years experience in Administration is Supervisory capacity is mandatory condition.

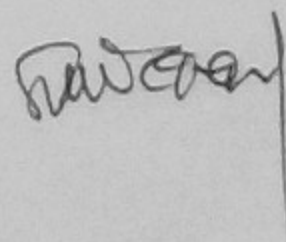
9. Although, it will be out of context for the purpose of deciding this case, but learned counsel for the applicant attracted our attention towards the documents filed along-with Short Reply of the respondents which is at page 28 and it has been argued that there had been discrimination in the case of the applicant. At Sl. No 4 & 5 the name of Sri Sushil. T. William and Sri V. K. Srivastava, have been mentioned and in Column No.-11 it has been mentioned that they are eligible for participating in the Interview, but in para 6 it is required that whether the C.R. received or not and it has been mentioned that the C.R. of these two persons were not received by the respondents at the time of submission of the application or at the time of Interview. It has been argued by the learned counsel for the applicant that the name of the applicant appeared at Sl. No.7 and it has been mentioned in the case of the applicant that the C.R. not received and the applicant was categorized as 'Not Eligible'. That



the two standards were adopted by the respondents in considering the case of the applicant vis-à-vis above mentioned persons. It has also been argued that the information was received under the R.T.I. Act that when the C.R. was received of Sri Sushil T. William as well as Sri V. K. Srivastava, but no information was furnished to the applicant regarding date on which the C.R. were received of these persons and the C.R. of above mentioned two persons were never received. It may be a fact that there was discrimination and it was unjustified on the part of the respondents to adopt double standards in the case of the applicant vis-à-vis Sri S. T. William as well as Sri V. K. Srivastava and it is relevant in order to ascertain that two standards have been adopted.

10. As we have stated above that the applicant was not eligible in order to participate in the selection for the post and if there was any discrimination in the case of the applicant vis-à-vis other persons then applicant is not going to be benefited, because the applicant was not possessing the requisite qualification and hence respondents were justified in calling to the applicant for Interview.

11. For the reasons mentioned above we are of the opinion that the O.A. lacks merits and liable to be dismissed and no benefit can



be given to the applicant on the basis of discrimination done with him. O.A. is liable to be dismissed.

12. O.A. is dismissed. No order as to costs.

J. Chandra

[Jayati Chandra]
Member-A

/Dev/

S. C. Sharma

[Justice S. C. Sharma]
Sr. Member-J