

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

I/10

.....
Date of Order : 22.7.03.

O.A. No. 310/2001

Lala Ram Meena
S.o Shri Ram Singh Ji,
AGed 32 years, Resident of Near Laxmi Kunj,
Chootina Well,
Bikaner.

.....Applicant.

VERSUS

1. Union of India through Secretary,
Ministry of Agriculture,
Department of Agriculture and Cooperation,
Krishi Bhawan,
New Delhi.

Union Public Service Commission,
Dholpur House,
Shahjahan Road,
New Delhi.

.....Respondents.

.....
Mr. M.R. Singhvi, Counsel for the applicant.

Mr. P.R. Patel, Counsel for the respondents.

Ans

.....

ORDER
[PER MR. JUSTICE G.L.GUPTA]

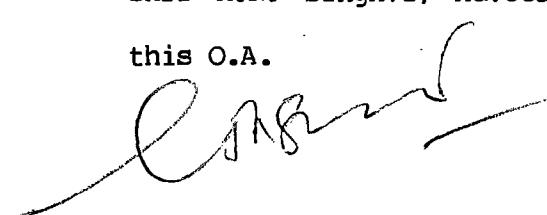
The reliefs claimed in this O.A. are as follows :-

"It is therefore, most humbly and respectfully prayed that record of the case may kindly be called and by an appropriate writ, order or direction, the respondent No. 1 may kindly be directed to appoint the applicant as Deputy Director (Development) in the Directorate of Sugarcane Development, soon after the receipt of the recommendations of the UPSC and to give him all consequential benefits with regard to emoluments, pay fixation, revision of pay scale, seniority, etc. etc.

any other order which may be considered just and proper in the facts and circumstances of the case may also be passed in favour of the applicant,

O.A. may kindly be allowed with costs."

2. The applicant is a Graduate in Agriculture and possesses experience of field. He belongs to Meena community which is Scheduled Tribe in the State of Rajasthan. The Government of India, sent a requisition to the Union Public Service Commission (UPSC), for filling-up a post of Deputy Director (Development). Notification was published in Rajasthan Patrika of 12.2.2000. The applicant applied for the post. He was interviewed on 12.10.2000 and was asked to produce experience certificate. After he submitted the desired certificate, the UPSC informed him vide letter dated 8.11.2000 that he had been selected for the post. The result of the selection was also published in Rojgar Samachar of 15.12.2000, wherein, at Item No. 19, Roll Number of the applicant was shown. The applicant did not get the appointment order. He, therefore, made representations to the UPSC and the Government. The representations were made through the political representatives, as also the National Commission for the Scheduled Castes and Scheduled Tribes. When no appointment was given to him, a notice for demand of justice was served through Shri M.R. Singhvi, Advocate, but, there was no response. Hence this O.A.



2.1. The say of the applicant is that the post of Deputy Director (Development), ear-marked for Scheduled Tribe candidate, is lying vacant since 1997 and the denial of appointment to the applicant after selection by the UPSC, is arbitrary, unjust and unreasonable and is hit by the Article 14 of the Constitution of India. It is the further say of the applicant that the respondents cannot deny appointment to him on the basis of the alleged recommendations of the Right Sizing Committee (RSC) of the department and that the recommendations cannot be implemented and given effect for the post ear-marked for Scheduled Tribe candidates. It is stated that the Ministry of Agriculture has not approved the recommendations of the RSC and, therefore, the applicant has a right of appointment.

3. In the counter filed by the respondent No. 1, Union of India, it is stated that the post of Deputy Director (Development), has been re-designated as Joint Director from 14.9.1999 and on the basis of the recommendations of the RSC, the post of Joint Director, Sugarcane Development, Lucknow, has been abolished vide its letter dated 30.10.2000 Annexure R/l. It is further stated that now the sanctioned strength of the Joint Directors in the Directorate of Sugarcane Development, Lucknow, is two and both the posts are filled-in and there is no vacancy available for giving appointment to the applicant.

4. We have heard the learned counsel for the parties and perused the documents placed on record.

5. Mr. Singhvi, the learned counsel for the applicant, contended that after the applicant was declared successful and his name was included in the list of the successful candidates, a

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right had accrued to him to get appointment. According to him, the appointment could not be denied to the applicant on the basis of the recommendations of the RSC. His alternative contention was that the letter Annexure R/10 dated 24.7.2000 does not indicate that the Committee had recommended for the abolition of the post of Joint Director in the Sugarcane Development Board at Lucknow. Pointing out that vide order dated 30.10.2000 Annexure R/11, only five posts of the Joint Directors have been abolished, he canvassed that still one post is available on which the applicant can be given appointment. He cited the cases of Virendra S. Hooda and others versus State of Haryana and another, (1999) 3 SCC 696, A.P. Aggarwal versus Government of NCT of Delhi and another, (2000) 1 SCC 600, Dr. Surinder Singh Jamwal and another versus State of J&K and others (1996) 9 SCC 619 and All Manipur Regular Posts Vacancies Substitute Teachers' Association versus State of Manipur, AIR 1991 SC 2088.

6. On the other hand, the learned counsel for the respondents contended that mere selection of the applicant did not confer on him a right of appointment. He submitted that after the selection of the applicant the RSC recommended the abolition of the post of Joint Director in the Directorate of Sugarcane Development, Lucknow, and, therefore, the applicant cannot be given appointment on the post. His further contention was that the RSC had recommended the abolition of six posts vide Annexure A/1 appended to Annexure R/10 dated 4.7.2000 and those posts included the post of Directorate of Sugarcane at Lucknow, and thereafter, the Government has abolished the post of the Joint Director vide communication Annexure R/11.

7. We have given the matter our thoughtful consideration.

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8. It is now admitted position of the parties that the post advertised by the UPSC vide Annexure A/1 was the Deputy Director (Development), in the Sugarcane Development Directorate. It is also an admitted position that the applicant was selected by the UPSC for the post. The question for consideration is whether the selection of the applicant for the post gave him a right of appointment.

9. It is now well settled that mere selection of a candidate for the post advertised does not give him a right of appointment. See. Jai Singh Dalal and others versus State of Haryana and another, 1993 SCC (L&S) 846, Government of Orissa Versus Har Prashad Das, AIR 1998 SC 375 and State of Andhra Pradesh and others versus D. Dastagiri and others, 2003 (3) Supreme 1605.

9.1. In the case of Jai Singh Dalal (supra), it has been observed that the selected candidate does not have a right of appointment and it is open to the Government not to fill up the post or to resort to fresh selection.

9.2. So also, in the case of Har Prashad Das (supra), it was observed that mere empanelment or inclusion of one's name in the selection list, does not give him a right to be appointed.

9.3. The same principle was reiterated in the case of D. Dastagiri (supra), wherein, it was observed that even the candidates who are selected and whose names finds place in the select list, do not got vested right of appointment based on the select list.

9.4. In view of the position stated in the above mentioned

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judgements of the Hon'ble Supreme Court, it has to be held that the mere inclusion of the name of the applicant in the select list, did not give him a right of appointment.

10. As to the cases relied on by Shri M.R. Singhvi, it may be stated that they are distinguishable on facts.

10.1. In the case of Virendra S. Hooda (supra), the facts were that on completion of selection, final list was published but the names of the appellants therein did not find place in the merit list against the 12 advertised posts. The contention of the appellants there was that some of the selected candidates had not joined and, therefore, the applicant should be considered against the vacancies. Reliance was placed on the two circulars of 1957 and 1972 according to which, the vacancies which arise within six months from the receipt of the recommendation of the Commission, should be filled up from the wait list by the Commission. It is on the basis of these circulars that their Lordships had directed the Government to consider the case of the appellants. In the instant case, there is not such a fact situation.

10.2. In the case of A.P. Aggarwal (supra) the fact situation was that two candidates were included in the panel prepared for filling up a post of Member, Sales Tax Tribunal. The first candidate joined in December of 1997 but, left the job in the first week of January 1998 because of his selection elsewhere. The appellant's contention that he ought to have been appointed when the other candidate left. The Government, on the other hand, had initiated the process of fresh selection. Interpreting the provisions of the Act of 1975 and the O.M. dated 14.5.1987, their Lordships observed that the reserve list was in operation and, therefore, the appellant therein ought to have been

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considered. It is manifest that there was totally a different fact situation.

10.3. The fact situation in the case of Dr. Surinder Singh Jamwal, was totally different. The life of the panel of the selected candidates expired due to the interim order of the Hon'ble Supreme Court and, therefore, there was difficulty in giving appointment to the applicant therein. Their Lordships ordered the extension of the period of panel. This ruling in no way helps the applicant.

10.4. The case of All Manipur Regular Posts Vacancies Substitute Teachers' Association's case (supra), is on different point. That was a matter where the substitute/adhoc teachers sought regularisation on the basis of several years of past service.

10.5. None of the authorities cited by Mr. M.R. Singhvi, is applicable to the facts of the case. The fact remains that the applicant does not have a right of appointment on the basis of his selection by the UPSC.

11. It is now evident that the post of Joint Director with the Sugarcane Development of Lucknow, has been abolished vide communication dated 30.4.2000. As per the recommendation of the RSC, six posts of the Joint Director were to be abolished. Those posts were in the department of Agriculture & Cooperation. The Directorate of Sugarcane Development, Lucknow, is a Directorate under the Department of Agriculture and Cooperation. When the RSC recommended the abolition of the post of Joint Director under the heading Other Crop Development Directorate, it had also recommended the abolition of the post of Joint Director of

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Lucknow Directorate. Therefore, it is factually incorrect to say that the RSC had not recommended for the abolition of the post of Joint Director in the Directorate of Sugarcane Development, Lucknow.

11.1. Incidentally, it may be stated that in the O.A., the case for the applicant was otherwise. It was averred that the RSC had recommended for the abolition of the post but, the Government had not abolished the post and, therefore, the applicant had a right of appointment. Be that as it may, now, the Government has abolished the post vide Annexure R/11.

12. As to the contention that vide letter dated 30.10.2000 only five posts of the Joint Directors for the various Directorates have been abolished and one post is available, it may be stated that the applicant was selected for the post of Joint Director in Sugarcane Development, Lucknow. When there is no post available in the Directorate of the Sugarcane Development, Lucknow, the applicant cannot claim appointment on the ground that only five posts have been abolished.

13. No other point was pressed before us.

14. Having considered the entire material on record, we find no merit in this O.A. and dismiss it with no order as to costs.

Com. M.D.
(G.C.Srivastava)

Adm. Member

G.L.Gupta
(G.L.Gupta)

Vice Chairman

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jrm

Rec'd M.G. Gage from M.R. Shingal
~~26/5/03~~
5/8/03
Jukom Singh

Part II and III destroyed
in my presence on 24.3.09
under the supervision of
section officer () as per
order dated 13/2/09

Section officer (Record)