

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA Nos.542/94 & 622/94

Monday, this the 12th day of December, 1994.

C O R A M

HON'BLE MR JUSTICE CHETTUR SANKARAN NAIR, VICE CHAIRMAN

HON'BLE MR PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

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1. OA No.542/94

KN Ranjith, Vaishakhi, Poonoor,
PO Unnikulam, Kozhikode.

....Applicant

By Advocate Shri KP Dandapani.

Vs.

1. Staff Selection Commission represented by
Regional Director (Southern Region),
EVK Sampath Building, 2nd Floor,
College Road, Madras--600 006.
2. The Deputy Director,
Staff Selection Commission (Southern Region),
EVK Sampath Building, 2nd Floor,
College Road, Madras--600 006.
3. The Collector of Customs & Central Excise,
Kochi.
4. Union of India represented by
Collector of Customs & Central Excise,
Kochi.

....Respondents

By Shri PR Ramachandra Menon, Addl Central Govt Standing Counsel.

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2. OA No.622/94

1. P Krishnadasan, Madathil House,
Katcherikunnu, PO Pokkunnu, Kozhikode.
2. Mathew Joseph, Kolencheriyil House,
PO Kadamattam, Ernakulam District.

....Applicants

By Advocate Shri KP Dandapani.

vs.

1. Staff Selection Commission represented by
Regional Director (Southern Region),
EVK Sampath Building, 2nd Floor,
College Road, Madras--600 006.

contd.

2. The Deputy Director,
Staff Selection Commission (Southern Region),
EVK Sampath Building, 2nd Floor,
College Road, Madras--600 006.
3. The Collector of Customs & Central Excise, Kochi.
4. Union of India represented by
Collector of Customs & Central Excise, Kochi.

....Respondents

By Shri C Kochunni Nair, Senior Panel Counsel.

O R D E R

PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

Applicants in these two applications seek the same reliefs and hence these applications are disposed of by a common order. For purposes of discussion, pleadings in OA 542/94 are taken as the basis.

2. The Staff Selection Commission published a Notice for recruitment to the posts of Inspectors of Central Excise, Income Tax etc for 1992 (A2). Applicants are Ex-servicemen who applied for recruitment in response to Notice A2. They were successful in the written test and in a subsequent interview, and were provisionally selected. But by order dated 28.3.94 (A1), their candidature for recruitment was cancelled on the ground that they did not possess the educational qualification on the "crucial date" (i.e.1.8.92). The contention of applicants is that the crucial date does not apply to Ex-servicemen like them. They have, therefore, prayed that A1 order be quashed, that they be declared entitled for appointment as Inspectors of Central Excise and that respondents may be directed to appoint them accordingly.

3. The educational qualification required is a Degree of a recognised University or equivalent. Rule 6 (4) of the Ex-serviceman (Re-employment in Central Civil Services and Posts) Rules, 1979 states that a matriculate Ex-serviceman who has put in not less than 15 years of service in the Armed Forces of the Union may be considered eligible for appointment to posts for which the essential educational qualification prescribed is graduation.

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4. It is not in dispute that on 1.8.92, applicants did not have the educational qualification prescribed as they had not completed 15 years of service in the Armed Forces of the Union on that date. Applicants contend that Note III under para 4 of the Notice A2 and the Explanation thereto require them to possess the required educational qualification only before the expiry of one year from the closing date. The Notice states, in Note III under para 4, "Age Limits", that for any Serviceman to be treated as Ex-serviceman for the purpose of securing the benefits of reservation, he must be in a position to establish his acquired entitlement by documentary evidence from the competent authority that he would be released/discharged from the armed forces within the stipulated period of one year from the closing date (i.e.7.9.92) on completion of his assignment. Respondents contend that this Note applies only to age concession. It is true that the Note is found under para 4 "Age Limits", but the wording of the Note is general, referring as it does, to the "benefits of reservation", and not to benefits of age relaxation. We are not able to accept the view of the respondents that the Note applies only to age relaxation. If such were the intention of the respondents, they should have stated so in the Notice A2, and till they do so, we must accept the contention of the applicants that this Note is of general application, and so covers concessions regarding other qualifications also.

5. The short point for determination is whether the crucial date is 1.8.92 as far as applicants are concerned.

6. Respondents rely on para 10 of the Notice A2. This para reads:-

"10. EDUCATIONAL QUALIFICATIONS: Degree of

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recognised University or equivalent. Candidates who have yet to appear at the Degree examination or whose result has been withheld or not declared on or before 1.8.1992 ARE NOT ELIGIBLE."

(Emphasis added)

A plain reading of this para shows that the crucial date, 1.8.92 is for candidates who are to appear at the Degree examination or whose result has been withheld or not declared. Applicants are not persons falling in this category. Therefore, the crucial date does not govern them. If the intention of the respondents was to make the date 1.8.92 applicable to ex-servicemen also, they should have said so in the Notice A2.

7. This view is supported by the Explanation in para 4 of the Notice (A2), which states that persons serving in the Armed Forces of the Union, who on retirement from service would come under the category of ex-servicemen, are permitted to apply one year before the completion of the specified terms of engagement and avail themselves of all concessions available to ex-servicemen, but shall not be permitted to leave the uniform till they complete their specified term of engagement. They are accordingly asked to give an undertaking that they understand that if selected, their appointment will be subject to the production of documentary evidence to the effect that they are entitled to the benefits admissible to ex-servicemen (Appendix III of Note A2). Applicants rightly contend that they need only to prove their educational qualification within one year of the closing date for receipt of applications, i.e. 7.9.92, as otherwise, their being permitted to apply one year before completing their engagement would be rendered meaningless. It is not in dispute that on their discharge from the Navy/Air Force, they had the required minimum service of 15 years. At the time of the interview in September-October, 1993, they had already been discharged from the

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Navy/Air Force after 15 years of service and so, possessed the prescribed educational qualification. So, at the time of appointment, they would be educationally qualified. The crucial date 1.8.92 would not be applicable in the case of ex-servicemen, who are, as a special class, permitted to apply a year before discharge and whose subsequent appointment will be subject to their producing documents showing that they are eligible for the benefits available to ex-servicemen, which benefits include a special provision for treating matriculation with a minimum of 15 years of service in the Armed Forces of the Union as equivalent to a degree of a University.

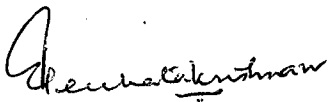
8. Learned counsel for respondents forcefully pleaded that the applicants should possess the prescribed educational qualification on 1.8.92, and that since they acquired the qualification only on a date after 1.8.92, they were not entitled to be selected. In the light of the discussion set out above, we are unable to accept this contention.

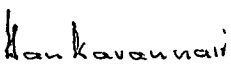
9. Learned counsel for applicants also raised a contention based on the principle of promissory estoppel and cited P Mahendran and others vs. State of Karnataka and others etc, (1990) 1 SCC 411 and Rajendra Prasad Mathur vs. Karnataka University and another, AIR 1986 SC 1448. In the view of the matter which we have taken, it is not necessary to consider this contention.

10. We accordingly allow these applications, quash the impugned orders A1, declare that applicants are entitled to be selected in terms of A3 and A4 and direct respondents to consider the candidature of the applicants for appointment without reference to the date of 1.8.92.

11. No costs.

Dated the 12th December, 1994.


PV VENKATAKRISHNAN
ADMINISTRATIVE MEMBER


CHETTUR SANKARAN NAIR (J)
VICE CHAIRMAN

List of Annexures

O.A. No. 542/94.

1. Annexure A.I. True & copy of Memorandum No.6/6/94-SR dated 28-3-94 of the 2nd respondent issued to the applicant.
2. Annexure A2. Photocopy of Notification published in Employment News No.8/14 dated August,1992 for recruitment to the post of Inspector of Central Excise and Income Tax,etc.referred to in the Original Application.
3. Annexure A3. Photocopy of relevant extract of result pertaining to written part for recruitment of Inspectors of Central Excise,Income Tax etc.1992, referred to in the Original Application.
4. Annexure A4. True copy of relevant extract of final result relating to recruitment of Inspectors of Central Excise,Income Tax etc.1992, referred to in the Original Application.