

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No.114/2013

Wednesday this the *9th* day of December 2015

C O R A M :

HON'BLE Mr.JUSTICE N.K.BALAKRISHNAN, JUDICIAL MEMBER
HON'BLE Mrs.P.GOPINATH, ADMINISTRATIVE MEMBER

Sunil P.K.,
S/o.P.Krishnankutty,
Working as Meteorological Attendant,
O/o.Indian Meteorological Department,
Calicut Airport, Malappuram.
Residing at Krishna, Aiswarya Nagar -3,
East Vennakkara, Nurani P.O., Palakkad – 4.

...Applicant

(By Advocate M/s.Rinny Stephen & Nirmal.V.Nair)

V e r s u s

1. Union of India
represented by the Secretary to Ministry of Earth Sciences,
Prithvi Bhavan, IMD Campus, Opp. India Habitat Centre,
Lodi Road, New Delhi – 110 003.
2. The Director General of Meteorological,
Mausam Bhavan, Lodhi Road,
New Delhi – 110 003.
3. The Deputy Director of Meteorological,
Regional Meteorological Centre,
50 (New 6) College Road, Chennai – 600 006. ...Respondents

(By Advocate Mr.K.S.Dilip,ACGSC)

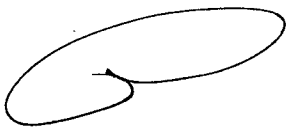
This application having been heard on 24th November 2015 this
Tribunal on *9th* December 2015 delivered the following :



ORDER

HON'BLE Mrs.P.GOPINATH, ADMINISTRATIVE MEMBER

The applicant commenced service under the respondents as a Meteorological/Laboratory Attendant. In 1999 he appeared in Senior Observers' Examination in the direct recruitment quota. The selection process was later cancelled by the competent authority. In 2003 the old recruitment rules for appointment to the post of Senior Observer are amended. On 18.7.2004 the applicant appeared in Senior Observers' Examination in the direct recruitment quota as per the amended rules. The said selection process was also cancelled by competent authority. Thus the vacancies to the post of Senior Observer accumulated and remained unfilled. Pursuant to the implementation of the recommendation of the 6th Central Pay Commission the posts of Scientific Assistant and Senior Observer are merged and re-designated as Scientific Assistant and placed in Pay Band-2 of Rs.9300-34800. On 31.12.2010 the DoPT issues revised guidelines for framing recruitment rules. It was laid down that while framing recruitment rules the prescribing of class or division in the basic qualification may be avoided. In August 2011 the Ministry of Earth Sciences, Scientific Assistant Recruitment Rules, 2011 is notified. It prescribes a minimum of 60% marks in the qualification degree for departmental candidates for appearing in the Limited Departmental Competitive Examination. The applicant apprehends that he will not be



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considered eligible for appearing in the LDCE since he does not possess 60% marks in the qualifying degree examination. In O.A.No.1041/2011 filed by the applicant this Tribunal directed the respondents to consider and pass order on his representation. On 16.11.2012 the representations are rejected. Applicant contends that there are only around 10 candidates available under the respondents who are eligible for appearing in the LDCE for being considered for the 47 vacancies earmarked for departmental candidates as per qualifications stipulated in Annexure A-12. The applicant in his relief seeks to declare that the Annexure A-12 Recruitment Rules to the extent it prescribes a minimum of 60% marks in the qualifying degree examination for the purpose of appearing in the Limited Departmental Competitive Examination for promotion to the post of Scientific Assistant is unconstitutional and ultra vires and to direct the respondents to reframe the Recruitment Rules in accordance with the Annexure A-12 guidelines issued by the Department of Personnel and Training by removing the stipulation of a minimum of 60% marks in the qualifying degree examination for departmental candidates for appearing in the Limited Departmental Competitive Examination for appointment by promotion to the 10% quota.

2. The respondents in their reply state that the Recruitment Rules for the post of Scientific Assistant, 2011 have been finalized after due consideration/deliberations and requisite approval of Dept. of Personel and



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Training, Union Public Service Commission and Ministry of Law. As per the Recruitment Rules, prescribed educational qualification required for Scientific Assistant (direct recruits) is a degree in the prescribed subject with 60% marks. It is submitted that as per the Recruitment Rules for the post of Observer notified on 10.10.1987 the method of recruitment in the grade was 100% by Direct Recruitment ie. (a) 90% from open market & (b) only 10% vacancies from Group D employees of the department in the cadres of LA/OA subject to fulfillment of following conditions :

- (i) Selection shall be made through a proficiency test confined to such Gr-D employees in the cadre LA/OA who fulfill requirement of minimum educational qualification ie. matriculation or equivalent.
- (ii) At least five years of regular service in Gr-D cadres of LA/OA shall be essential.
- (iii) Maximum number of recruits by this method shall be limited to 10% of vacancies in the cadre Observer occurring in a year and unfilled vacancies occurring in a year are not to be carried over.

3. It is submitted that the post of Observer was re-designated to the post of Laboratory Assistant, a Group C cadre vide No.B-73708 dated 10.7.1991. Thereafter, the existing posts in the cadre of Observer were automatically converted as Laboratory Assistant when subsequent vacancies arose and then the post of Observer stood abolished. Hence the applicant's claim for appointment as Observer either on promotion or under direct recruitment quota in the year 2002 does not arise. The Recruitment Rules for Group C & D posts of SA and SO in IMD were amended in 2003. IMD notified



vacancies on 17.7.2003 in the cadre of SO to be filled through 100% direct recruitment and there was no such provision available in the rules facilitating the respondents to appoint a departmental candidate against the vacancy earmarked for direct recruitment. There could have been many other serving government officials in the department like the applicant who satisfied the eligibility criteria at that time. The only option for all of them was to compete like any other eligible candidate and clear the tests and procedures meant for direct recruitment of SO and the applicant in the present OA in fact wrote the examination as a direct candidate in 2004 but was unsuccessful. Respondent points that vacancy position of SA is as follows :

Scientific Assistant (1.1.2008)

Sanctioned strength	Men/Women in position	Vacancies
1305	1128	177

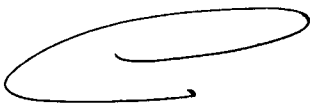
4. It is submitted that as per the recommendations of the 6th CPC and as accepted by the Government, the erstwhile Group C post of Senior Observer (SO) has been merged with that of Group B post of SA retrospectively with effect from 1.1.2006 and the post of Senior Observer in IMD was re-designated as Scientific Assistant with effect from 1.1.2006 and hence the SA cadre in IMD becomes the feeder cadre, to be filled by direct recruitment. Respondent also submits that because the applicant had not got any promotion since his joining IMD, the benefit under the Modified



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Assured Career Progression Scheme introduced in Government service as per 6th CPC recommendations has been extended to him in time. As per the MACP Scheme the employees become eligible to be granted three financial upgradations one each after completion of every ten years of service. The applicant who had completed more than 10 years of service as on 1.1.2008, was eligible for consideration under MACP scheme and was granted financial upgradation with effect from 1.9.2008 in the grade pay of Rs.1900/-. Respondent submits that in order to improve overall quality of the work of the office which will ultimately give benefit in the field of Meteorology, Agriculture, Industry, Research in particular and society as a whole in general, the final processing of the notification of Recruitment Rules was done only with the pre-requisite approval of DoPT, UPSC and Ministry of Law. Respondent admits that due to the lack of transparency the recruitment process initiated by IMD in 2004 was cancelled.

5. Heard the counsel for the parties and considered the written submissions made. Applicant is seeking relaxation of 60% qualifying marks in the degree examination for appearing in the LDCE for promotion to the post of Scientific Assistant. Applicant refers to DoPT guidelines for framing recruitment rules wherein one of the guidelines is to avoid prescribing first or second class in respect of an educational qualification. Respondent submits that the recruitment rules were drafted and issued with the approval



of Department of Personnel, UPSC and Ministry of Law. Hence the originating Ministry of Annexure A-11 guidelines for framing recruitment rules were consulted when prescribing 60% qualifying marks in the degree examination. This qualification was apparently prescribed to improve overall quality of the work of the respondent department which deals with meteorology, weather and climate matters which is intended to ultimately benefit Meteorology, Agriculture, Industry, Research in particular and society as a whole. Hence the respondent and Department of Personnel, the nodal ministry which issued the guidelines that prescribing class or division in basic qualification be avoided, entered this arena in an open manner with due consultation and in the interest of the above areas of subject respondent in particular, which have an impact on the economy and the country as a whole. The earlier recruitment rules for the two posts have no relevance as the posts have been merged. The old recruitment rules were applicable to the two sets of pre-merged posts and stand re-drawn up for the merged post. The applicant's contention is that there are 1000 posts lying vacant. Respondent in his reply at para 14 gives the details of sanctioned strength, men in position and vacancies. It is observed that only 177 vacancies are existing which will be filled as per the mode of recruitment prescribed in the recruitment rules. Any claim for promotion to higher posts cannot be justified merely on the ground of having worked for a number of years. It should be in accordance with the recruitment rules. Appointments cannot be



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fortuitous or made to suit individual requirements or demands. It should cover the overall goal and requirement of an organisation and the purpose for which it was set up to serve the country and its people. The respondent has taken a reasoned decision in the interest of the nation. It cannot be interfered with. The respondent is a scientific department and precision and accuracy and indepth study preceding predictions is a part of the nature of their work and it would not be appropriate for the Tribunal to interfere in the recruitment of persons who deliver the work. (see also the decisions of the Apex Court in Chandigarh Administration through the Director Public Instructions (Colleges), Chandigarh vs. Usha Kheterpal Waie and others (2011) 9 SCC 645 and J.Rangaswamy V. Government of Andhra Pradesh and others (1990) 1 SCC 288. Therefore, the reliefs sought are only to be declined. The Original Application is, accordingly, dismissed.

(Dated this the ^{9th}..... day of December 2015)


P.GOPINATH
ADMINISTRATIVE MEMBER


N.K.BALAKRISHNAN
JUDICIAL MEMBER

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