

Central Administrative Tribunal, Lucknow Bench, Lucknow

Original Application No. 277/2005

8th
this the day of September, 2005

HON'BLE SHRI SHANKER RAJU, MEMBER (J)

HON'BLE SHRI S.P. ARYA, MEMBER (A)

1. Atish Kumar Singh Chauhan aged about 54 years son of Sri U.B. Singh r/o Beli Kala, P.S. Gosaiganj, District Lucknow.

..Applicant

By Advocate: Sri A. Moin

Versus

1. Indian Council of Agriculture Research, Krishi Bhawan, New Delhi through Secretary.
2. Indian Institute of Sugarcane Research, Dilkusha Rae Bareli Road, Lucknow through Director.
3. Senior Administrative Officer, Indian Institute of Sugarcane Research Dilkusha, Rae Bareli Road, Lucknow.

..Respondents

By Advocate: Sri Deepak Shukla for Sri Prashant Kumar

ORDER

BY HON'BLE SHRI S.P. ARYA, MEMBER (A)

The applicant is working as Assistant. The post of Assistant Administrative Officer was earlier being filled in on seniority cum suitability basis from amongst the eligible cadres of promotion. A notice dated 18.6.2004 issued for Limited Departmental Competitive Examination quota inviting applications from Superintendent (Admn.)/Senior Steno having three years regular service or five years combined regular service in the grade of Assistant and Supdt. (Admn)/PA and Sr. Steno or five years regular service in the grade of Assistant /P.A. in the scale of Rs. 5500-9000 as on the closing date i.e. 30.6.2004. The examination was conducted and subject to final outcome of this O.A., one Sri K.P. Yadav has been appointed. The appeal of the applicants

for promotion has been rejected by order dated 10.6.2005. The applicant by this O.A. seeks for quashing the notice dated 18.6.2004 and the order dated 10.6.2005 on appeal and also to direct the respondents to fill the post of Assistant Administrative Officer on the basis of seniority by promotion as per recruitment rules dated 27.7.2000.

2. We have heard learned counsel for the parties and perused the pleadings.
3. Recruitment Rules for the administrative posts were revised by order dated 27.7.2000. The method of recruitment for the post of Assistant Administrative Officer under ICAR was revised as under:-

| | | |
|---|---|--|
| 9 | Method of recruitment whether by direct recruitment or by promotion or by deputation/absorption and percentage of posts to be filled by various modes | a) 75% by promotion |
| / | | b) 25% by Limited Departments Competitive Examination confined to Supdtt. (Admn.)/Sr. Steno having three years regular service or 5 years combined regular service in the grade of Assistant and Supdt. (Admn) /P.A. and Sr. Steno or 5 years regular service in the grade of Assistant/PA in the scale of Rs. 5500-9000 as on the closing date notified for receipt of application for examination, at the respective insttt. |

4. These revised recruitment rules came into force with immediate effect i.e. 27.7.2000. One post of Assistant Administrative Officer has fallen vacant on 1.3.2003 on the retirement of one Sri S.C. Mohai. This post has been filled in by limited departmental competitive examination by Sri K.P. Yadav by order dated 30 th June 2005. This order is subject to final outcome of this O.A.

5. There are four posts in the cadre of Assistant Administrative Officer. Three posts are already filled in by promotes. Controversy in the present case is whether the post which has fallen vacant on 1.3.2003 is to be filled in by promotes or by LDCE.

6. Counsel for applicant has relied on the State of Punjab and others Vs. Dr. R.N. Bhatnagar and another reported in (1999) 2 Supreme Court Cases 330 where Recruitment Rules, 1978 provided for 75% by promotions and 25% by direct recruitment and it was held that the first vacancy after the rules came into force would go to promotes. It may be noted here that it was in 1978 when the rules were framed. Executive instructions were being operative earlier. Rules came into force only in 1978. In the present case, the rules were already in operation. These were revised on 27.7.2000. Earlier rules provided for 100% promotion from amongst eligible members of the cadre. It was by the rules circulated on 27.7.2000 that the recruitment to the post of Assistant Administrative Officer was revised to be 75% by promotion and 25% by direct recruitment i.e. LDCE. The rules were not framed for the first time on 27.7.2000. Recruitment Rules already existed. It was only a revision thereof. Ratio given in Dr. Bhatnagar's case would, therefore, not be applicable to the present case.

7. Three of the posts of Assistant Administrative Officer cadre is already occupied by promotes. If the vacancy which has arisen on 1.3.2003 is also to be filled in by promotion then the very objective sought to be achieved by the revised RR would be frustrated and vacancies of 1.3.2003 and three other vacancies likely to arise in future would go to promotes. This was not the purpose of revised rules. It may be noted that the method of recruitment clearly shows the posts for which percentage as is prescribed. It, therefore, cannot be said in respect of only vacancies as the rules have not been framed for the first time. If the argument of counsel for applicant is accepted, it would mean that 100% of posts would go to promotes and there was no need to amend or revised rules.

8. It was also contended by the counsel for the respondents that applicant did not apply to LDCE though he was fully qualified for applying to the post of Assistant Administrative Officer. The applicant did not avail the opportunity available to him.

Q. In this view of the matter, the revised Recruitment Rules being specific, percentage of posts to be occupied by the promotes /LDCE has to be maintained at a definite

- 4 -

point of time, as far as possible.. The quota and rota rule has to be followed in accordance with revised Recruitment Rules w.e.f. the date it has come into operation and accordingly first, second and third post available in the cadre would go to promotes and fourth post would go to direct recruits through LDCE

19. Accordingly, we find no infirmity in the notice or in the order rejecting appeal. In the result O.A. is dismissed with no order as to costs.

S.P.Arya
(S.P.Arya)

S. Raju
(Shanker Raju)

Member (A)

Member (J)