

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

PATNA BENCH : PATNA

Date of Decision:- 23/2/Sept/99

Registration No. OA-500 of 1996

Vijay Chandra Roy, Son of Sri Moti Chandra Roy,
resident of village Ranipur, P.O. and P.S. Phulwarisharif,
District Patna.

... Applicant

- By Shri T.P. Rastogi, Advocate

Versus

The Union of India through the Secretary,
Union Public Service Commission, Dholpur House,
Shahjehan Road, New Delhi-110011.

... Respondent

- By Shri V.M.K.Sinha, Senior Standing Counsel

Coram:- Hon'ble Shri L.R.K. Prasad, Member (Administrative)

Hon'ble Shri Lakshman Jha, Member (Judicial)

ORDER

Hon'ble Shri Lakshman Jha, Member (J):-

1. The applicant has prayed for direction to the Respondent to select him finally against one of the rest six vacant posts of Grade V of the Central Labour Services.

2. The applicant was employed as Seed Technician under the State Seeds Testing Laboratory, Mithapur, Bihar, Patna, since 22.1.82. He applied for appointment to the post of Grade V of the Central Labour Services/ Labour Officer/Assistant Labour Commissioner/Assistant Welfare Commissioner in response to the Advertisement No.7 (item No.5) dated 10.4.93 of the Union Public Service Commission as at Annexure-A-1. He fulfilled

all the requisite qualifications and conditions laid down in the Advertisement and was allowed Registration No.344 dated 29.4.93 as at Annexure-A-3. It is stated that he was not called for interview and the Respondent - Union Public Service Commission recommended the names of only 24 candidates for appointments against the total 30 vacancies as advertised vide selection results as at Annexure-A-5. The selection was made without any written or oral test against the Constitutional mandate under Article 320 of the Constitution of India. It is stated that the applicant fulfilled all the requisite qualifications and his non-selection is arbitrary and discriminatory.

3. The Union Public Service Commission in its counter has stated that the interview for the post as advertised under Annexure-A-1 was held from 8.8.94 to 26.8.94 and 24 candidates were recommended for appointment on 22.12.94. Subsequently after the final orders of the CAT, Hyderabad and Delhi High Court in some pending cases the remaining six candidates were recommended vide letter dated 26.7.95 and 16.1.96. Thus, the selection process was completed against all the 30 vacancies in accordance with a mandate of the Constitution of India.

4. It is further stated that the applicant did not possess essential qualification No.(iii) as advertised i.e. to say two years' experience in a responsible capacity in handling/dealing with labour problem in the Government Establishments Industry or Trade Union Organisation and therefore, he was not called for interview. He (the applicant) earlier filed an OA-274/96 against his non-selection for the interview and also against non-communication of the result. The aforesaid OA No. 274/96 was disposed of with direction that the Union Public Service Commission shall

send a reply to the applicant with reference to his representation made in this connection. In compliance with the direction of the Tribunal the Union Public Service Commission sent a reply as at Annexure-A-10 dated 31.7.96, by which the applicant was advised that he was not called for the interview for the reasons that he did not fulfil the requisite qualifications and experience as mentioned in the advertisement.

5. Heard Shri T.P. Rastogi, counsel for the applicant and Shri V.M.K. Sinha, Senior Standing Counsel for the Respondents and perused the record.

6. The learned counsel for the applicant drew our attention to the certificate at Annexure-A-4C to A-4/1 and submitted that the applicant was working under the State Government of Bihar since 22.1.82 as Laboratory Assistant. At the relevant time he was working as a Seeds Technician. He further pointed out that the applicant had been functioning as the Secretary General of the Bihar State Seeds Testing Employees Union, Mithapur, Krishi Farm, Patna, since December, 1980, and therefore, he fulfilled the essential qualification No.(iii) of the Advertisement No.7.

7. The Essential Qualification No.(iii) as advertised vide Annexure-A-1 was as hereunder:-

"2 years experience in a responsible capacity in handling/dealing with labour problem in a Govt. establishment Industry or Trade Union Organisation."

8. The learned counsel for the Respondent contended that the Union Public Service Commission, which is a statutory body, did not consider the claim of the applicant regarding fulfilling the aforesaid essential qualification favourably. The Union Public Service Commission has been vested ^{with} the powers of interpreting ~~of~~ the essential qualifications prescribed by

Statutory Recruitment Rules. Therefore, there is no scope for the judicial review by this Tribunal.

9. The contention of the learned counsel for the Respondents is quite sound and proper. The Union Public Service Commission has been vested with the powers to divide its own procedure objectively and in a just manner, in which the reasonable classification of the various applicants on the basis of their qualification and experience is an integral part. It is settled law that the power of the Commission is not subject to Judicial Review. The Commission in the instant case filled up all the 30 vacancies advertised on the basis of scrutiny of qualification and experience of the applicants. The applicant was replied according to the direction of this Tribunal in OA No. 274/96 that he was not fulfilling essential qualification criteria No.(iii) as extracted above.

10. The learned counsel for the Respondent rightly pointed out that this Tribunal in the aforesaid order passed in OA-274/96 while directing the Union Public Service Commission to give reply to the representation of the applicant observed that "the applicant has absolutely no nexus to the post. Besides, all the 30 posts were filled up on the basis of the interviews of the candidates found eligible by the Commission. Hence, the prayer of the applicant is infructuous.

11. In view of the aforesaid discussions we find that the application is devoid of merit. It is accordingly rejected. There shall be no order as to costs.

LJha 23.9.99
 (Lakshman Jha)
 Member (J)

23.9.99
 (L.R.K. Prasad)
 Member (A)