

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH BANGALORE

DATED THIS THE 21st DAY OF APRIL 1987

Present : Hon'ble Sri Ch. Ramakrishna Rao - Member (J)

Hon'ble Sri B. Srinivasan - Member (A)

APPLICATION Nos. 1227 to 1230/86

1. T. Mahabaleshwar Adiga } Provident Fund  
2. M.S. Raghavendra } Inspector (Gr.I)  
} Office of the Regional  
} Provident Fund  
} Commissioner, Bangalore 25
3. Rajashekha Hegde  
Provident Fund Inspector (Gr.I)  
Office of the PFI, Shimoga
4. B.S. Shankaranarayana  
Accounts Officer  
Office of the Deputy Regional  
Provident Fund Commissioner,  
Hubli 21  
(Shri N.B. Bhatt, Advocate) - Applicants  
and

1. Union of India by  
Secretary to Government of India  
Ministry of Labour  
Shram Shakti Bhawan, New Delhi
2. Union Public Service Commission  
by Secretary to UPSC, Dholpur House  
Shahjahan Marg, New Delhi 110011 - Respondents  
(Sri M.S. Padmarajaiah, Senior C.G.S.C.)

This composite application came up for hearing  
before this Tribunal and Hon'ble Sri Ch. Ramakrishna  
Rao, Member (J) to-day made the following

ORDER

This composite application was initially filed  
by four applicants in the High Court of Karnataka  
and subsequently transferred to this Tribunal. On  
19-9-1983 when this composite application was filed

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the first and second applicants were working as Provident Fund Inspectors ('PFI') in Bangalore; the third as PFI at Shimoga and the fourth as Accounts Officer in the office of the Deputy Regional Provident Fund Commissioner at Hubli. In response to an advertisement dated 1.8.81 and 14.11.81 of the Union Public Service Commission ('UPSC') inviting applications for eight posts of Assistant ('APFC') Provident Fund Commissioner, of which 5 were existing posts and 3 anticipated, the applicants forwarded their applications to the UPSC. The said advertisement was a sequel to a requisition from the Ministry of Labour ('MOL') in the month of March 1981 and as many as 1200 applications were received. Out of these, 143 candidates were short-listed for interview held in June 1982. On the basis of the interview held by the UPSC, 8 persons were selected and appointed. Subsequently, a requisition for filling up 16 more posts of APFC was received by the UPSC from the MOL. Out of the candidates, whose applications had been received against the notification of 8.8.81 and 14.11.81, 16 more candidates were selected and appointed during the period from June 1982 to August 1983 as APFCs on the basis of the same interview held ~~xx~~ in <sup>W.H.</sup> June 1982. ~~to August 1983~~. The applicants were not among the short-listed candidates. Aggrieved, the applicants have filed this composite application.

2. The thrust in the argument of Sri N.B. Bhatt, learned counsel for the applicants, is that the short-listing of 143 candidates, among whom his clients did not figure, offends the doctrine of equality enshrined in Articles 14 and 16 of the Constitution of India. Shri Bhatt has developed his arguments thus :

The applicants fulfilled all the qualifications prescribed for the posts advertised. Their names should have been included in the names short-listed and for no valid reason their names have been omitted. On earlier occasions, when similar recruitments were made, a written test was held on the basis of which the short-listing was done and this procedure not having been followed, the short-listing suffers from the vice of arbitrariness. The applicants were not informed of the objective criteria followed in the matter of short-listing. In the reply filed on behalf of the respondents, no specific criteria adopted by the UPSC for short-listing of candidates have been set out. Though the initial advertisement was for 8 posts, 16 more posts were filled without inviting applications afresh for those posts, thereby depriving the applicants of one more opportunity to apply for the post of APFC.

3. Shri M.S. Padmarajaiah, learned counsel for the respondents, strongly refutes the contention of Shri Bhatt. According to him, the UPSC has the right to short-list when a large number of candidates apply for a post and in so doing it follows appropriate parameters; that it is not obligatory on the part of the UPSC to hold a written test in all cases; that when selection is made without holding such a test, short-listing is done by giving preference to candidates possessing higher qualifications and experience than the minimum prescribed in the advertisement; that the manner in which short-listing is to be done is decided by UPSC taking into account all the relevant factors and such a decision cannot be characterised as arbitrary; that it is not obligatory on the part of the UPSC to inform all the candidates the criteria followed for short listing;

that the applicants have not imputed any mala fides in respect of the candidates already selected to the post of APFC nor any specific instances been cited by the applicants to show that persons with lower qualifications than the applicants were short listed. Shri Padmarajaiah, therefore, submits that the short-listing does not offend Articles 14 and 16 of the Constitution.

4. We have considered the rival contentions carefully. In cases where large number of candidates apply for a post advertised by UPSC, it is well nigh impossible for UPSC to call all the applicants for interview. It is precisely for this reason that the method of short listing is ~~not~~ adopted. The normal practice is to call for interview candidates who possess higher qualifications and experience than the minimum prescribed for the post. The exclusion of a large number of applicants from the zone of interview is thus inevitable and it is not ipso facto a pointer to arbitrariness on the part of UPSC. Occasions may, however, arise where specific allegations of mala fides in respect of any particular member of the UPSC is made or any nepotism is imputed to a member of the UPSC or the staff in charge of short-listing. Such allegations need careful examination. In the present case, however, no such allegations have been made. We, therefore, apply the ratio of the decision of the Supreme Court in Union of India v. Poornachandra Rao 1982 SCC (L&S) 176 that whether the UPSC duly considered the application of a candidate does not involve a question of law. Nor do we find any substance in the contention that a written test should have been held and on the basis

of the results thereof the short-listing should have been done. The following observations of the Supreme Court in Lila Dhar v. State of Rajasthan, 1981 SCC (L&S) 588 are apposite to the present context:

"In the case of admission to a college, where the candidate's personality is yet to develop and it is too early to identify the personal qualities for which greater importance may have to be attached in later life, greater weight has per force to be given to performance in the written examination and there the importance to be attached to the interview-test must be minimal. Therefore, the ratio<sup>r</sup> of the decision in Periakaruppan and Ajay Hasia cases in this regard cannot be applied in case of services to which recruitment has necessarily to be made from persons of mature personality. In such services interview-test may be the only way, subject to basic and essential academic and professional requirements being satisfied."

We, therefore, hold that the method of shortlisting of candidates for interview adopted in this case does not suffer from any legal infirmity.

5. Shri Bhatt vigorously pleads that records relating to short-listing may be called from the UPSC for the purpose of scrutinising the criteria adopted for short-listing. We are not persuaded to accept this plea. In the case of short-listing of candidates and interviews held by UPSC, which is a creature of the Constitution, there is always a presumption that the process of selection is done by application of objective criteria. True, this presumption is rebuttable but no material has been placed before us to rebut the presumption. If we are to accept the contention of Sri Bhatt, it would necessitate calling of records from UPSC in every case of a person not short-listed for interview for a post advertised by the UPSC. In the absence of a specific allegation that

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candidates with lower qualifications ~~were~~ were short-listed or any allegation of mala fides on the part of the officers short-listing the candidates by citing specific instances, we would be loath to presume that the UPSC acted arbitrarily in short-listing the candidates or in selecting the most meritorious out of them for the post advertised. We, therefore, do not consider it necessary to call for the records from the UPSC.

6. Turning to the contention that when 16 more candidates were selected in addition to the 8 posts initially advertised, a fresh process of selection should have been initiated, we are of the view that this is a matter for the UPSC to decide. From the records produced, we note that the requisition for the additional posts was made on 23.2.1982 - long before the UPSC interview for the 143 candidates held in June 1982.

7. In the light of the foregoing, we hold that the practice and procedure followed by the UPSC in short-listing and selecting candidates for the posts advertised and also for those in respect of which a requisition was sent subsequently by the MOL, does not in any way violate the equality clause enshrined in Articles 14 & 16 of the Constitution. We, therefore, hold that the selection to the posts of APFCs challenged in this composite application were valid.

8. In the result the application is dismissed. There will be no order as to costs.

Chandrasekhar  
Member (J) 21.4.87

P. S. 21/4/87  
Member (A)