

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO.: 539 OF 1998.

Date of Decision : 08.09.1998.

Teckchand Kaushik. Petitioner.

Shri R. V. Desai alongwith
Shri Suresh Kumar, Advocate for the
Petitioner.

VERSUS

U.P.S.C. & Another. Respondents.


Shri Rajgopal Advocate for the
Respondents.

CORAM :

Hon'ble Shri Justice R. G. Vaidyanatha, Vice-Chairman.

Hon'ble Shri D. S. Baweja, Member (A).

- (i) To be referred to the reporter or not ? *no*
- (ii) Whether it needs to be circulated to
Other Benches of the Tribunal ? *no*


(R. G. VAIDYANATHA)
VICE-CHAIRMAN.

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CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO.: 539/98.

Dated this Tuesday, the 8th day of September, 1998.

CORAM : HON'BLE SHRI JUSTICE R. G. VAIDYANATHA,
VICE-CHAIRMAN.

HON'BLE SHRI D. S. BAWEJA, MEMBER (A).

Teckchand Kaushik,
Central Government Advocate,
Branch Secretariat,
Ministry of Law and Justice,
Aaykar Bhavan,
Mumbai - 400 020.

Residing at -

Flat No. 3202, Bldg. No. 222,
Sector-I, C.G.S. Colony,
Mumbai - 400 037.

... Applicant

(By Advocate Shri R.V. Desai
alongwith Shri Suresh Kumar)

VERSUS

1. Union Public Service
Commission,
Dholpur House,
New Delhi - 1.

2. The Chairman,
Union Public Service
Commission, Dholpur House,
New Delhi - 11 & Others.

... Respondents.

(By Advocate Shri Rajgopal)

: OPEN COURT ORDER :

{ PER.: SHRI R. G. VAIDYANATHA, VICE-CHAIRMAN }

This is an application filed by the applicant seeking a direction to the respondents to call him for an interview for the post of Sr. Central Government Advocate to which he had applied in pursuance of advertisement dated 26.07.1997. The respondents have filed reply.

2. We have heard the Learned Counsel appearing on both sides regarding admission and interim relief.

3. The applicant had responded to the advertisement for the post of Senior Central Government Advocate and applied for the same. The interview was fixed on 14.07.1998 but the applicant was not called for the interview. Therefore, he approached this Tribunal seeking a direction to U.P.S.C. to call him for interview. Then after coming to know that the respondents have adopted a criteria for short-listing the candidates, the applicant has since amended the application challenging the short-listing criteria of the respondents.

4. The respondents have filed reply stating that having regard to the number of applications and the vacancy being one, they have short-listed the candidates and that is why the applicant was not called for interview. Ofcourse, the respondents have not disclosed in the reply the criteria for short-listing.

5. Today, at the time of argument, the Learned Counsel for the respondents has produced the entire file of the U.P.S.C. pertaining to the impugned selection. We have perused the same. The file gives an idea of short-listing, namely - restricting the candidates who have 20 years of experience as an advocate. The applicant has only 19 years 6 months practice as an Advocate. Therefore, admittedly the applicant does not come within the short-listing criteria of 20 years practice as an advocate.

6. The Learned Counsel for the applicant contended that the short-listing criteria is arbitrary and the respondents issued call letters for interview even to some candidates who did not have the minimum qualification. The Learned Counsel for the respondents refuted this submission and contended that call letters for interview has been sent as per the rules and as per the minimum criteria for short-listing prescribed by the U.P.S.C.

7. The fact that the respondents have a right to short-list the candidates, cannot be disputed and infact, this condition is mentioned in the advertisement itself. The advertisement itself shows that the U.P.S.C. has reserved itself the right to short-list the candidates depending upon the qualification and experience or experience, depending upon the number of applications received and the number of vacancies available.

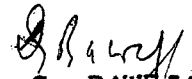
In the present case, it is brought to our notice that there were forty-one applications as against one vacancy. By short-listing criteria of 20 years experience, the U.P.S.C. has called fifteen candidates for interview. Having regard to the fact that there was only one vacancy, calling fifteen candidates for interview by adopting uniform criteria of 20 years experience, it cannot be said by any stretch of imagination that the action of the U.P.S.C. is illegal or arbitrary. We are also not impressed by the argument of the Learned Counsel for the applicant that candidates without minimum qualification have been called for interview. Nodoubt, in the interview

letters a clause is entered that the candidates should produce necessary certificates. It does not mean that the candidates does not have minimum qualification or experience. It appears, ⁱⁿ some of the applications given by the candidates, there was no clear indication or the particulars were not properly given and, therefore, they were called upon to produce the necessary certificate at the time of interview. If ultimately, any candidate with no proper qualification or experience is appointed, then it is open to the applicant or any others to challenge the same according to law. But we are only at the stage of calling the candidates for interview on the basis of short-listing criteria. The short-listing criteria on the minimum experience of 20 years cannot be said to be either illegal or arbitrary having regard to the vacancy being one and total applications being forty-one. Therefore, we do not find any merit in the contention of the applicant challenging the action of the respondents in not calling him for interview or challenging the short-listing criteria.

8. In the result, the application is rejected at the admission stage. The ad-interim order passed in this case dated 10.07.1998 is hereby vacated. However, this order is without prejudice to the right of the applicant to challenge appointment of any candidate who is appointed without requisite qualification and experience, according to law. In the circumstances of the case, there will be no order as to costs.



At this stage, Shri R. V. Desai, the Learned Senior Counsel for the applicant, prays for continuation of the interim order for four weeks. Having regard to the facts of the case, we are not inclined to extend or to continue the interim order.


(D. S. BAWEJA)
MEMBER (A).


(R. G. VAIDYANATHA)
VICE-CHAIRMAN.

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