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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No.918/89.

Date of Judgement : 16.2.1991.

Dr. J.G.Negi

.. Applicant

Vs.

1. The President,
Council of Scientific &
Industrial Research (CSIR),
Anusandhan Bhavan,
Rafi Marg,
New Delhi-110001.
 2. The Search Committee for
appointment of the Director,
National Geophysical Research
Institute (NGRI), Uppal Road,
Hyderabad, in the year 1989,
C/o CSIR, Anusandhan Bhavan,
Rafi Marg,
New Delhi-110001.
 3. CSIR Rep. by its
Director-General &
Ex-Officio Chairman,
Governing Body,
Anusandhan Bhavan,
Rafi Marg,
New Delhi-110001.
 4. Dr. A.P.Mitra,
Director-General,
CSIR, Anusandhan Bhavan,
Rafi Marg,
New Delhi-110001.
 5. Sri D.Gupta,
Director, NGRI,
Uppal Road,
Hyderabad-500007.
- .. Respondents

Counsel for the Applicant :: Shri Vilas Afzalpurkar

Counsel for the Respondents:: Shri Chennabasappa Desai,
SC for CSIR

C O R A M

Hon'ble Shri A.B.Gorthi : Member(A)

Hon'ble Shri T.Chandrasekhar Reddy : Member(J)

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Pd

O.A.No.918/89.

Date of Judgement : 16.2.1994.

J u d g e m e n t

[As per Hon'ble Shri A.B.Gorthi : Member(A) X

The Applicant is a highly qualified Scientist of considerable academic eminence. Besides being a Doctorate from I.I.T. Kharagpur, he is also the recipient of several awards in the scientific field, including the coveted Dr. Shanti Swarup Bhatnagar Award. His academic qualifications and achievements need not be further elaborated here as they are not in dispute. The grievance of the Applicant is that he was improperly denied appointment as Director, National Geophysical Research Institute (NGRI for short) in 1989.

2. The main contention of the learned counsel for the Applicant is that Shri D.Gupta Sarma (R5) who was selected and appointed as Director, NGRI in 1989 did not possess the requisite qualification, namely, a Doctorate in Geophysics. He further contended that with a view to favour R5, the authorities concerned not only lowered the level of academic qualifications required for appointment as Director, NGRI, but also omitted to ensure that wide publicity was given prior to the selection.

3. We have heard learned counsel for both the parties and also perused the relevant record. Admittedly, prior to the selection the requirement that the candidate should be a Doctorate in Geophysics was given up for the ostensible purpose of enabling a wider selection by the Search Committee. It was felt by the authorities concerned that more than a Doctorate in Geophysics, the candidate to be appointed as Director, NGRI should have certain dynamism and scientific pragmatism to lead a team of highly qualified scientists placed under him.

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4. The criteria requirement for the post of Director, NGRI is a matter to be examined and specified by the authorities responsible for the well being of the Institute. Where they so decided, it is ordinarily not for a Court or Tribunal to interfere with the same unless the same is shown to be arbitrary or malafide. In the instant case, the question was examined at considerable length and after due deliberations a decision was taken not to insist upon the academic qualification of a Doctorate. There is also nothing on record to show that anyone in authority was either unduly biassed against the Applicant or was closely in favour of R5. We, therefore, do not see any irregularity in the Respondents' decision not to insist upon the requirement of a Doctorate for appointment as the Director, NGRI.

5. As regards the allegation that the selection was not done properly, in that, adequate publicity was not given to it, we need not go into it because admittedly the candidature of the Applicant was also considered along with that of the others including R5. The Search Committee which conducted the selection comprised eminent scientists. Unless something definite and to the contrary is shown, we must presume that the selection was done properly and fairly. There is nothing on record to suggest even remotely that the selection of R5 ~~was~~ in preference to the Applicant was rather unfair or unjust.

6. We are informed by the learned counsel for the Applicant that the Applicant, though on the rolls of NGRI, is presently working as the Director-General, Madhya Pradesh Council of Science & Technology and that his academic eminence thus found suitable recognition. Learned Counsel for the Respondents has stated that R5 (Dr. Gupta Sarma) whose selection and

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appointment as Director, NGRI has been sought to be quashed by means of this O.A. has/since retired. In the ensuing vacancy, one Dr. Gupta has already been appointed after due selection. There is no challenge in this O.A. to the appointment of Dr. Gupta as Director, NGRI. Learned Counsel for the Respondents has thus contended that the present O.A. has become infructuous as the relief sought in the O.A. can no longer be granted in view of the retirement of R5. Opposing this contention of the Respondents' Counsel, learned counsel for the Applicant has drawn our attention to some decided cases which are discussed in the succeeding paragraphs.

(1) In B.R.Ramabhadraiah Vs. Secretary, Food & Agriculture Department, Andhra Pradesh & Ors. AIR 1981 SC 1653, it was held that a Govt. employee who had sought in writ petition the issuance of a writ of mandamus directing the State Government to forbear from implementing or acting upon the provisional gradation list would not be precluded from seeking a lesser relief due to change in circumstances during the pendency of the writ petition.

(2) In Nand Kishore Marwah & Ors. Vs. Smt. Samundri Devi AIR 1987 SC 2284, it was held that where a suit for eviction was instituted within the period of exemption and if during the pendency of litigation the period of exemption expired, restriction on institution of suit for eviction would not be attracted. It was a case under the U.P. Urban Buildings (Regulation of Letting, Rent and Eviction) Act (13 of 1972). In that case, it was held that section 20 would not be attracted as the suit for eviction was instituted within the period of exemption.

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To

1. The President, Council of Scientific & Industrial Research (CSIR), Anusandhan Bhavan, Rafi Marg, New Delhi-1.
2. The Search Committee for Appointment of the Director, National Geophysical Research Institute (NGRI) Uppal Road, Hyderabad
C/O CSIR Anusandhan Bhavan, Rafi Marg, New Delhi-1.
3. The Director General and Ex-Officio Chairman, CSIR, Governing Body, Anusandhan Bhavan, Rafi Marg, New Delhi-1.
4. One copy to Mr. Vilas Afzalpurkar, Advocate, CAT. Hyd.
5. One copy to Mr. Chennabasappa Desai, SC for CSIR, CAT. Hyd.
6. One copy to Library, CAT. Hyd.
7. One spare copy.

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(3) In Atma Ram Mittal Vs. Ishwar Singh Punia, AIR 1988 SC 2031, the well settled principle that the rights of the parties crystalise to the date of institution of the suit was reiterated.

(4) In Ramesh Kumar Vs. Kesho Ram, AIR 1992 SC 600, it was held, inter alia, as under:

"The normal rule is that in any litigation the rights and obligations of the parties are adjudicated upon as they obtain at the commencement of the lis. But this is subject to an exception. Wherever subsequent events or fact of law which have a material bearing on the entitlement of the parties to relief or on aspects which bear on the moulding of the relief occur, the court is not precluded from taking a 'cautious cognizance' of the subsequent changes of fact and law to mould the relief."

7. There can be no dispute about the legal principles enunciated in the aforestated judgements of the Supreme Court. In the instant case, the prayer of the Applicant was for setting aside the appointment of R5 and to direct the Respondents to appoint the Applicant as Director, NGRI. Due to the retirement of R5 during the pendency of the O.A., any order at this stage setting aside the said appointment would be redundant. It has been brought out very clearly that the appointment of Director, NGRI is contractual in nature and is for a period of six years and that the appointment is made after considering the names of suitable candidates nominated for the purpose by the various institutions and other departments. Unless a candidate's name is thus nominated for consideration the question of the Respondents appointing him as Director, NGR would not arise. In these circumstances and for the reasons aforestated, we are of the considered view that the relief sought for by the Applicant cannot be granted.

8. The application is thus dismissed but there shall be no order as to costs.

T. Chandrasekhar Reddy
(T.Chandrasekhar Reddy)
Member (J).

A.B.Gorthi
(A.B.Gorthi)
Member (A).

Dated: 16 Feb., 1994.

br.

Deputy Registrar (J) C.C.

TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD

THE HON'BLE MR. JUSTICE V. NELLADRI RAO
VICE-CHAIRMAN

AND

THE HON'BLE MR. A. B. GORTHI : MEMBER(A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY
MEMBER(J)

AND

THE HON'BLE MR. R. RANGARAJAN : MEMBER(A)

Dated: 16-2-1993

ORDER/JUDGMENT:

M.A./R.A/C.A.No.

in

O.A.No.

91889

T.A.No.

(W.P.)

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions.

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

Rejected/Ordered.

No order as to costs.

