

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD
BENCH : AT HYDERABAD

...

O.A.No. 223 of 1990

Date of Order: 16-10-1990

Between:-

Dr.A.V.R.G.Krishna Murthy ..

Applicant

and

1. Union of India, represented by the Secretary to Government, Ministry of Environment and Forests, New Delhi.
2. Dr.D.N.Tiwari, IFS, Vice Chancellor, University of Bilaspur, Madhya Pradesh.
3. Dr.P.K.Khosla
Dean (Extension)
Dr.Y.S.Parmar University of Horticulture and Forestry
P.O.Nauni, Himachal Pradesh.

..

Respondents

...

APPEARANCE:

1. Shri G.Raghuram, learned Counsel for the Applicant.
2. Shri E.Madan Mohan Rao, Addl. Standing Counsel for Union of India (Respondent No.1)
3. Shri Nair, Senior Advocate, appearing on behalf of C.Suryanarayana, learned counsel for Respondent No.2.
4. Shri B.Subhashan Reddy, learned Counsel for Respondent No.3.

CORAM:

THE HONOURABLE SHRI B.N.JAYASIMHA, VICE-CHAIRMAN.

THE HONOURABLE SHRI D.SURYA RAO, MEMBER(JUDICIAL).

JUDGEMENT OF THE DIVISION BENCH DELIVERED BY HON'BLE
SHRI B.N.JAYASIMHA, VICE-CHAIRMAN.

1. The applicant herein is a Chief Conservator of Forests in the Indian Forest Service Cadre of Andhra Pradesh. He has filed this application for declaring

6/1

.../..

cause of action has arisen outside the jurisdiction of this Tribunal and the applicant has also not exhausted alternative remedy available to him. We will deal with these various contentions later while discussing the main points that have arisen for our determination.

8. We have heard Shri G.Raghuram, learned Counsel for the applicant, Shri E.Madan Mohan Rao, Additional Standing Counsel for the Union of India (Respondent No.1), Shri Nair, learned Senior Counsel representing Shri C.Suryanarayana, Counsel for Respondent No.2 and Shri B.Subhashan Reddy, learned Counsel for Respondent No.3.

9. First a preliminary objection was taken that this Tribunal has no jurisdiction to consider the case. Reliance was made on Rule 6 of the Central Administrative Tribunals (Procedure) Rules, 1987 which reads as follows:-

" 6. Place of filing applications-- The application shall ordinarily be filed by the applicant with the Registrar of the Bench within whose jurisdiction:-

- i) the applicant is posted for the time being, or
- ii) the cause of action has arisen, or
- iii) the respondent or any of the respondents against whom relief is sought, ordinarily resides;

provided that the application may be filed with the Registrar of the Principal Bench and, subject to Section-25 of the Act, such application may be transmitted to be heard and disposed of by the Bench which has jurisdiction over the matter."

It is contended that the application could have been filed either at New Delhi or in the Allahabad Bench in whose jurisdiction the Indian Council of Forestry Research and Education, Dehradun, is located. The rule quoted

fwj

essential qualifications prescribed while preparing the panel. The contention that the application of the 3rd respondent was entertained after the due date is also denied. It is also contended that the applicant had an alternative remedy of making representation to the Government of India and the applicant has prematurely filed this application without exhausting this alternate remedy available to him.

5. The 3rd respondent also filed a counter stating (Respondent No.3) that the contention of the applicant that he/does not have the essential qualifications is without any basis. He also contests the contention that he did not send the application in time and says that apart from sending his application through proper channel, he sent an advance copy well within the time.

6. We had earlier heard the case setting Respondent No.2 ~~ex parte~~ and delivered the judgement. The respondent No.2 subsequently filed an M.A.No.494 of 1990 for setting aside the ~~ex parte~~ order of the Tribunal dated 23-7-1990 on the ground that he had not received the notice sent by the Tribunal and, therefore, the order ex parte is not correct. After hearing the matter, we have set aside our earlier order dated 23-7-1990 and posted it for re-hearing. The applicant also filed a Review Application No.75 of 1990 and this was not pressed in view of our order allowing M.A.494 of 1990 and setting aside the ~~ex parte~~ order and directing ~~for~~ re-hearing of the case.

7. Respondent No.2 has filed a counter stating that the contention of the applicant that he is not qualified for the post is incorrect. He also states that the

b7i

.../...

No.3 has submitted his application through his employer within the stipulated date and the same was taken note of on receipt of his advance copy. The respondent No.3 has stated that as per the instructions, apart from sending his application through proper channel of the University which despatched the same to respondent No.1 on 18-12-1989, he also sent an advance copy on 6-12-1989 by post and the same reached well before 11-12-1989. On consideration of these submissions, we do not find any merit in the contention that the application of respondent No.3 was belated and its acceptance was irregular.

12. We will now consider the main contentions raised by the applicant viz., that the respondents 2 and 3 do not possess the essential qualifications prescribed for the post. Before we deal with this question, we may notice the qualifications prescribed as stated in the advertisement issued calling for applications:-

" Educational Qualifications:

(a) for Scientist:-

(i) First Class Postgraduate degree in Forestry, Botany, Agriculture or other related sciences or equivalent of first class Bachelor's degree in Engineering or Technology from a recognised university institution, and

(ii) Total 30 years experience in Forestry Research/Forestry Education (25 years in case of

6/9

above has been amended as follows:-

" 6. Place of filing application - (1) An application shall ordinarily be filed by an applicant with the Registrar of the Bench within whose jurisdiction -

- i) the applicant is posted for the time being, or
- ii) the cause of action, wholly or in part, has arisen:

provided that with the leave of the Chairman the application may be filed with the Registrar of the Principal Bench and subject to the orders under section 25, such application shall be heard and disposed of by the Bench which has jurisdiction over the matter.

(2) Notwithstanding anything contained in sub-rule(1) person who has ceased to be in service by reason of retirement, dismissal or termination of service may at his option file an application with the Registrar of the Bench within whose jurisdiction such person is ordinarily residing at the time of filing of the application."

It is seen from the amendment that an application can be filed where a part of cause of action has arisen. In this case, the cause of action can be stated to have arisen in Hyderabad where the applicant is working and where from he sent the application for the post. We, therefore, see no merit in this contention and reject the same.

10. The next contention of the applicant is that the Selection Committee accepted the application of the 3rd respondent even though it was belated. In the counter filed by respondent No.1, it is stated that respondent

6/1

its
it has not completed five years of existence. His
earlier experience as Professor of Forestry cannot be
considered as experience in administration as it is
only a teaching post. To this, the reply of the 1st
respondent is that the subject of Cytogenetics is very
relevant to forestry as Cytogenetics deals with plant
cells and their diverse genetic properties. Its
relevance is common to all species - agriculture, horti-
culture and those which may be called forest species.
The 3rd respondent in his counter points out that he had
worked with a renowned Professor of Forest Sciences and
his thesis has been valued by two eminent U.S. Forestry
Professors viz., Prof.J.W.Wright and Prof.F.Mergen.
He had also undertaken 10 visits including two years
research study and many of the other visits specifically
concerned global experience in research and education
in Forestry. He holds a First Class ~~1st~~ in M.Sc.,
Botany which is prescribed as an essential qualification.
He fulfils desirable qualification also as during his
doctorate programme, he specialised on the Cytogenetics
Forestry which is very much related to Forestry as is
evident from the title of his thesis. Cytogenetics
alongwith biotechnology also forms a full fledged division
in the National Institute of Forest Genetics and Tree Breed-
ing at Coimbatore (Tamil Nadu) for which the applicant
himself was a member of a review committee. The learned
counsel for the applicant took us to the dictionary
meaning of the word Cytogenetics Cytology - the branch
of Biology concerned with the structure, function and
life history of cells; Cytogenetics - the cytological
aspects of genetics. To show that Cytogenetics is a very
relevant subject, the 3rd respondent has filed a number

bw

candidates having Doctorate Degree) which should include Administrative experience for at least five years;

(iii) Should not ordinarily be more than 50 years of age on 1-1-1990.

(b) For Forestors:

(i) An officer of the Indian Forest Service serving as or not below the level of Chief Conservator of Forests/Additional Chief Conservator of Forests in a State having completed 25 years service with reference to the year of allotment.

(ii) Should have worked in Forestry Research Establishment for a period of at least 3 years.

(iii) Should not be more than 55 years of age on 1-1-1990.

3. Desirable Qualification: Doctorate in Forestry or other related Sciences. "

It will be seen from the above that separate qualifications have been prescribed for the Scientists and for the Forestors. The 3rd respondent comes under the category of Scientists. The contention of the applicant is that the 3rd respondent (Dr.P.K.Khosla) holds a branch of Doctorate in Cyto-genetics, Plant Sciences. He contends that this is not a subject related to Forestry ~~exacted~~ and is only ~~xx~~ related to Botany. He also states that the 3rd respondent lacks administrative experience of five years since the University of Horticulture and Forestry was established in December 1985 and on 11-12-1989

6/1

.../...

personnel matters like promotion of his subordinates etc.. After consideration of these submissions, we find no merit in this contention of the applicant. In the result, the contention of the applicant that the 3rd respondent does not possess the essential qualifications is without any basis and is accordingly rejected.

15. We now proceed to consider the contention of the applicant that the 2nd respondent also does not possess the essential qualifications. He states that the 2nd respondent's qualification has to be judged under item 'b' i.e., as a Forester. In the parent cadre of Forest Department of the Government of Madhya Pradesh, he was only holding the post of Conservator of Forests as on the date of application or interview and was not holding either the post of the Chief Conservator or the Additional Chief Conservator of Forests. He also does not satisfy the three years experience in the Forestry Research Establishment. The Doctorate which he holds is in "Social Anthropology" which is neither a Forestry subject nor a related subject. In reply respondent No.1 has stated that respondent No.2 was serving as Vice Chancellor of Guru Ghasidas University, Bilaspur, at the time of submission of his application and that the post of Vice Chancellor of the said University is not below the level of CCF/Addl.CCF of the Indian Forest Service as the basic pay of Vice Chancellor of the said University is Rs.7,600/- whereas the basic pay of CCF/Addl.CCF is Rs.5900--6700/- only. The fact that the 2nd respondent has not been appointed as Addl. CCF/CCF in a State is of no consequence to his candidature by virtue of his holding a post much higher in status to that of Addl.CCF/CCF.

BNJ

of papers like Introduction to Forest Genetics by Jonathan W.Wright, Course Catalogue in the College of Horticulture & College of Forestry which includes subject, the Forest Genetics, etc.. On a plain reading of the subject matter covered by Cytogenetics, we are unable to accept the contention of the applicant that Cytogenetics is not a related Science to Forestry. It may be noted that the 3rd respondent also possesses Postgraduate Degree in Botany which is a requirement.

13. The next point urged by the applicant is that the 3rd respondent doesnot have 30 years of experience in Forestry Research or 25 years experience after obtaining the Doctorate Degree. From the qualifications prescribed, it is clear that the total experience required is 30 years in Forestry Research or Forestry Education and in respect of the persons having Doctorate Degree the experience required is 25 years. We are unable to accept the interpretation of the applicant that 25 years should be after obtaining the Doctorate Degree. The 3rd respondent has completed 25 years of service. This contention also has to be rejected.

14. The further contention of the applicant is that the 3rd respondent does not have 5 years of administrative experience. The 1st respondent in his reply stated that the 3rd respondent as a Professor and Head of Department of Forestry can be considered as having administrative experience. A Professor has many other duties to perform like allocation of duties/lectures, finalisation of curricula, conducting examination, arranging seminars, etc.. Apart from this, he has to look into various

fwj

.../...

The topic for his Ph.D. degree was "Dependence of Tribals on Forests". The National Forest Policy of 1988 recognises the symbiotic relationship between Forests and Tribals and it cannot be said that his doctorate is not in a subject related to Forests. In regard to his promotion to the post of C.C.F./Addl.C.C.F., in the Madhya Pradesh Forest Department, he states that the Departmental Promotion Committee, which met from time to time in 1989 had approved his name for promotion as C.C.F./Addl.C.C.F., but the formal orders could not be issued because ^{of the} pendency of an application in the Tribunal. If he is reverted, he would be posted in a post equal to the post of Chief Conservator of Forests/Additional Chief Conservator of Forests. His deputation as Vice Chancellor has been approved by the State and Central Governments under Rule 6(2) of the Indian Forest Service (Cadre) Rules, 1966. He also contends that the level of the post of Vice Chancellor is above that of the Secretary/Principal Chief Conservator of Forests/Chief Conservator of Forests/Additional Chief Conservator of Forests, and the duties attached to the post are far ^{those} more extensive than ~~that~~ of the C.C.F./Addl.C.C.F. He is also placed at a much higher place in the ~~warrant~~ of precedence and he gets priority in the matter of reservation for accommodation in Circuit House, etc.. He is now drawing a pay of Rs.7,600/-p.m. plus allowances whereas the pay scale of the post of C.C.F. is Rs.5900--6700. For these reasons, he contends that the applicant's contention that he is not qualified is without any basis.

17. Shri G.Raghuram, learned Counsel for the applicant, submits that the question of comparing the post of Vice-Chancellor with that of C.C.F./Addl.C.C.F. does not

6/5

Respondent No.3 in his counter states that respondent No.2 is holding a substantive post of Conservator of Forests and his mere appointment as Vice Chancellor of Bilaspur University does not make him either a Chief Conservator or equivalent to Chief Conservator. The post of a Vice Chancellor is not a promotion from the post of Conservator of Forests. From a substantive post of Conservator of Forests, he was appointed as a Vice Chancellor and after the expiration of the period ~~would be~~ stipulated, he ~~/~~ reverted back to his substantive ~~position and~~ post of Conservator of Forests. He, therefore, states that respondent No.2 does not fulfil the requirements specified in the advertisement.

16. Respondent No.2 in rebutting this contention has stated that he secured M.Sc., and Ph.D. degrees and also a Diploma called A.I.F.C., which is a postgraduate Diploma in Forestry. He joined Madhya Pradesh Forest Department in 1960. He was selected to Indian Forest Service with the year of allotment 1963½. He was promoted as Deputy Conservator of Forests in the year 1967. In 1982 he was given proforma promotion as Conservator of Forests while working as Director in Ministry of Home Affairs, Government of India. Subsequently he was selected for the post of Vice-Chancellor by a Committee consisting of the Chief Justice of Madhya Pradesh High Court, Shri T.N.Chaturvedi, the then C.A.G. as a nominee of the Governor and Dr.A.Banerjee, elected Member of the Executive Council. He has been working as Vice Chancellor of Guru Ghasidas University, Bilaspur, w.e.f. 7-9-1987. His deputation has been duly approved by the State and Central Governments.

fnf

.../...

of Guru Ghasidas University. It is true that a formal order promoting Respondent No.2 as Additional Chief Conservator of Forests/Chief Conservator of Forests has not been issued. But there is no doubt that his name has been considered by a D.P.C., whose proceedings could not be implemented because of a stay from the Central Administrative Tribunal. The question for consideration is whether this should come in the way of ~~the~~ ^{the} ~~applicant~~ ^{for} declaring the ~~applicant~~ ^{as} qualified. We do not think so. On a consideration of these facts, we are of the view that the contention of the applicant that respondent No.2 does not fulfil the qualifications prescribed has to be rejected.

18. In the result, we find no merit in the application and accordingly we dismiss the same. No order as to costs.

Case Number	04.223/90
Date of Judgement	16-10-90
Copy made ready on	19-10-90
Section Officer (J)	

CERTIFIED TO BE TRUE COPY
.....
Date.....
Court Officer
Central Administrative Tribunal
Hyderabad Bench
Hyderabad.

nsr
To:
1. The Secretary to Government, (Union of India) Ministry of Environment and Forests, New Delhi.
2. One copy to Mr.G.Raghuram, Advocate, 1-10-13, Ashoknagar, Hyderabad-20.
3. One copy to Mr.E.Madan Mohan Rao, Addl.CGSC,CAT,Hyderabad for R-1.
4. One copy to ~~Mr. R. S. Naik~~ Mr.C.Suryanarayana Advocate, 1-2-593/50, Srinilayam, Sri Sri Marg,Gaganmehal Hyderabad-29.
5. One copy to B.Subhashan Reddy, 3-5-170/A, Narayanaguda, Opp. Water Reservoir, Y.M.C.A. to King Koti Road,Hyd-29.
6. One spare copy.