

(70)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH : AT HYDERABAD

OA No. 1479 of 1995

Between:

Dr. P.L. Premi,  
S/o Late Shri Bikhari Lal,  
aged about 52 years,  
working as Scientist  
(Agricultural Entomology),  
Plant Quarantine Regional Station,  
(NBPGR), Rajendra Nagar,  
Hyderabad - 500030.

...Applicant

A N D

1. The Secretary,  
Agricultural Scientists &  
Recruitment Board,  
Krishi Anusandhan Bhawan,  
New Delhi - 110012.
2. The Secretary,  
Indian Council of  
Agricultural Research,  
Krishi Bhavan,  
New Delhi. - 110001.
3. The Secretary,  
Department of Agricultural  
Research & Education (DARE),  
Krishi Bhavan,  
New Delhi.

...Respondents

DETAILS OF THE APPLICANT:

Address for service of summons/  
notices etc on the applicant:

Sanka Ramakrishna Rao,  
Advocate, 1-1-230/9,  
Andhra Bank Lane,  
Chikkadapally, Hyderabad.

1. PARTICULARS OF THE ORDER AGAINST WHICH THE  
APPLICATION IS MADE:

"This application is against the impugned Agricultural Scientists' Recruitment Board recruitment advertisement Nos 2/95 and 3/95, advertised by the first respondent for various posts and for non-consideration of the applicant's candidature for the interview for the posts as advertised by him in the above said notifications".

2. JURISDICTION OF THE TRIBUNAL:

The applicant declares that the subject matter of the order against which he wants redressal is within the jur'

of the Tribunal under section 14 (1) (b) (ii) of the Administrative Tribunals Act, 1985.

3. LIMITATION:

The applicant further declares that the application is within the limitation period prescribed in Section 21 (1) (a) of the Administrative Tribunals Act, 1985.

4. FACTS OF THE CASE:

4.1. It is respectfully submitted that the applicant initially joined as Technical Assistant, Grade.III in Food Corporation of India, UP Region at Hapur in the year 1971 in the pre-revised scales of Rs.120-260. After serving for four years in this post, he was selected as Technical Officer, Storage and Research in the grade of 550-900 and joined at Hyderabad on 3.12.1975 and served in this post upto 30.9.1976. During this period the applicant appeared for the Agricultural Research Services examination in the year 1976 and got selected as Scientist S-I in the grade of 700-1300 and joined in this capacity on 8.10.1976 at National Bureau of Plant Genetic Resources, ~~Hyderabad~~ New Delhi. In this post he served for five years and he got selected as Joint Director in the scale of Rs.1300-1700 in the year 1981 and in this post he joined on 30.11.1981 in the Central Silk Board at Mysore. Subsequently, he was posted at Bangalore as Head of the Regional Sericulture Research Station, Bangalore for irrigated mulberry under the world bank programme. There he served upto 1985. In the same capacity he was transferred to Ranchi and from Ranchi, the second respondent got him repatriated to his parent institute i.e., National Bureau of Plant Genetic Resources, New Delhi and this institute gave him posting at Hyderabad and put him under the administrative control of Hyderabad Regional Station with effect from 13.2.1986. Since then he is under the control of this regional station at Hyderabad. This since

the applicant has acquired an experience of 24 years five months till date and as a research and management worker, he acquired an experience of 20 years.

4.2. It is further respectfully submitted that the first respondent advertised research and management positions vide advertisement No.2/95 (Annexure.I) and advertisement No.3/95 (Annexure.II). Vide advertisement No.2/95, the applicant applied for the posts vide item No.6, 8, 9, 11, 12, 14, 18, 20, 23, 25, 26 and 35 and vide advertisement No.3/95 applied for the posts vide item No.3, 7, 8, 11, and 21 in the scale of Rs. 4500-7300. The first respondent specified the qualification respectively for all the posts, which are given below for the sake of convenience:

(a) Essential Qualifications:

(i) Ph.D. degree

(ii) Principal Scientist five years (in the scale of Rs.4500-7300) experience

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AN EMINENT SCIENTIST HAVING PROVEN RECORD OF SCIENTIFIC CONTRIBUTION IN REPUTED ORGANISATION INSTITUTE HAVING 13 YEARS (IN CASE OF POSTS OF HEADS)/18 YEARS (IN CASE OF POSTS OF DIRECTORS) PROJECT DIRECTORS) EXPERIENCE IN THE RELEVANT SUBJECT

(Hence, no pay scale or grade is provided by the first respondent)

(iii) Evidence of contribution of research/teaching/extension education supported by published work/innovations.

(iv) Specialisation of the relevant field.

(b) DESIRABLE QUALIFICATION:

Experience in research and management position

Having found suitable with this qualifications, the applicant applied through proper channel and all the applications were forwarded by the Director of this applicant to the first respondent within time and certifying that no vigilance case is pending nor being contemplated against the applicant.

4.3. It is further respectfully submitted that the first respondent had advertised many posts in April 1995 vide advertisement No.1/95 and the applicant had applied for a post of Head of Entomology, Indian Agricultural Research Institute, New Delhi vide item No.32 in the scale of Rs.4500-7300. In this case, the qualification prescribed is that one should be an eminent scientist with 13 years experience. The applicant, having spent 20 years in the research and management position, has acquired the status of eminent scientist irrespective of the scales whatsoever. While notifying the qualifications, the first respondent has notified that in place of Principal Scientist a person should be an eminent scientist with an experience of 18 years for the post of Director/Project Director without stipulating any scale. Thus, the applicant has fulfilled the qualifications for all the posts for which he has applied as stated above. The first respondent called this applicant for the post of Head of Entomology vide their office letter No.34-1/95-R.II dated 16.2.95 and directed the applicant to appear for interview on 3.7.1995 at 9 AM at New Delhi. But while this applicant was preparing to go to Delhi, the first respondent sent a telegram dated 24.6.95 directing the applicant not to attend the interview as he is not eligible to be called for the post of Head of Entomology, Indian Agricultural Research Institute, New Delhi. Aggrieved by this, action of the first respondent, this applicant approached this Hon'ble Tribunal for the relief. This Hon'ble Tribunal was pleased to admit the case on 29.6.1995 in OA No.755/95 (Annexure.III). This Hon'ble Tribunal made the following order:

"Any appointment made to the post of Head of Entomology IARI, New Delhi in pursuance of the advertisement No.1 (item No.32) dated 6.4.95 is subject to the outcome of this OA. This factor has to be mentioned in the appointment to be made for that post."

4.4. It is further respectfully submitted that the first respondent has been interviewing the posts, for which the applicant had applied vide advertisement No.2/95 and 3/95, since October, 1995 and continuing. The applicant has not been considered for any of the posts. The first respondent has not also informed the applicant of his ineligibility whatsoever nor sent any information to the applicant. Hence, this application before this Hon'ble Tribunal.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS:

5.1. It is respectfully submitted that the applicant fulfilled the requisite qualifications as mentioned in the notification mentioned above. The notifications for all the posts stipulated the following conditions to be fulfilled by the applicant:

(a) ESSENTIAL

(i) Ph.D degree in any project-----Science

(ii) Atleast 5 years experience as Principal Scientist (Rs.4500-7300) or in an equivalent position

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An eminent scientist having proven record of scientific contribution/working in a reputed organisation/institutions having atleast 18 years experience in the relevant subject

(iii) Evidence of contribution to research/teaching/extension education as supported by published work/notifications

(iv) Specialisation in the field of -----technical/research education

DESIRABLE

Experience in research management position

5.2. It is further respectfully submitted that in the light of the essential qualifications stipulated by the first respondent under item No.2, it is the option for the applicant either to fulfil the service condition as mentioned under (ii) or the proven record of scientific contribution contributed by the applicant with atleast 18 years of experience in the relevant subject. When it was stipulated that the essential qualifications

may be of either the service or the contribution of scientific research, the applicant had fulfilled the second option with the proven record of scientific contribution with 18 years of experience in the relevant subject. Therefore, it can be rightly concluded that the applicant had fulfilled the research proven record with 18 years of experience and by virtue of this qualification, he is eligible for consideration for the post applied for. For all the posts, the applicant, the above said condition was commonly prescribed to be fulfilled, by the applicant, which the applicant had fulfilled. Therefore, it is no option for the first respondent to take a stand that the applicant is not eligible for the posts applied for and ignoring the applicant for calling for interview for consideration of the post mentioned above is arbitrary, frivolous and designed with malafied intention to deprive the applicant from keeping the fruits of his long research and research oriented service, in order to benefit somebody else, in whom the first respondent is interested.

5.3. It is further respectfully submitted that it so happens that when this respondent recommends the selections and appointments are done and over and above one year, it sometimes informs the candidates about their non-selection belatedly for the posts concerned, not giving any chance to the candidates so unselected to represent to the authorities concerned. In this process, those unselected candidates are kept in dark about their selection/non-selection with a view of manipulation. Hence, in the process of selection to the advantage of the authorities concerned, which cannot be questioned by such candidates at such a late stage.

5.4. It is further respectfully submitted that finding that the interviews had already been held and for some of the posts offers of appointment are already given and some of the selectees have already joined, there was no other way but to approach this Hon'ble Tribunal for the relief.

(Jb)

applicant has not been given any opportunity by the first respondent by issuing interview letter though this applicant was fulfilling all the qualifications for the above said posts. The applicant suspects the malafide intention of the team of the first respondent that when OA No.755/95 is pending for decision in this Hon'ble Tribunal with the above interim relief this respondent choosed to defend the wrong action taken by them on 24.6.95 by way of sending the impugned telegram, they have disca.ded the candidature of this applicant completely for all the posts without bothering for the rule of law. This applicant should have been called for all the posts. The first respondent has every right to reject the selection of this applicant, but this applicant should have been called for interview for all the posts stated above. This, the applicant has not been given any opportunity of being equal to appear for the interview and at this point, the applicant has to submit that his right of equal opportunity in public employment has been infringed by the first respondent in violation of the articles of 14 and 16 of the Constitution of India, which grievance this Hon'ble Tribunal may kindly review and do justice to the applicant, who had been well qualified with the varied experience in the field of research and management, in the interest of justice.

6. Aggrieved against the inaction on the part of the first respondent in not calling the applicant for interview for the post, he had applied for, the applicant had no other alternative except to approach this Hon'ble Tribunal, as right from October, 1995, the interviews have been continued to be held and the applicant apprehends that the selections may also be concluded without reference of the applicant's candidature. Therefore, he has no other efficacious remedy except to approach this Hon'ble Tribunal seeking their intervention before any substantial damage is caused to the applicant. Hence, this applicant before the Hon'ble Tribunal.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING WITH ANY  
OTHER COURT:

The applicant further declares that he had not previously filed any application, writ petition, or suit regarding the matter in respect of which this application has been made before any other court or any other authority or any other bench of the Tribunal nor any such application, writ petition or suit is pending before any of them.

8. RELIEF (S) SOUGHT:

In view of the facts mentioned in para 4 above, the applicant prays for the following relief (s);

It is respectfully prayed that the Hon'ble Tribunal may be pleased to

(i) to call for the records resting on the file of the first respondent related to the posts advertised vide impugned notification vide item No.6, 8, 9, 11, 12, 14, 18, 20, 23, 25, 26 and 35 vide advertisement No.2/95 and for the posts vide item No.3, 7, 8, 11 and 21 of the impugned advertisement No.3/95 duly examining the circumstances under which the first respondent had denied the opportunity to the applicant in not calling for interview for the said post;

(ii) to set aside the respective interview proceedings held since October, 1995 till date, declaring them as arbitrary and with malafide intentions to deprive the applicant of his equal opportunity;

(iii) to direct the first respondent to initiate fresh interviews with altogether fresh interviews Committees giving fair chance to the applicant to participate in the said interviews; and

(iv) to award the costs for the damages caused to



applicant and consequential benefits;

and be pleased to pass such other and further order or orders as the Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

9. INTERIM ORDER IF ANY PRAYED FOR:

Pending final decision on the application, the applicant prays for the following interim orders:

It is respectfully prayed that the Hon'ble Tribunal may be pleased to direct the first respondent to stay all proceedings of interviews already held from the month of October, 1995 and further proceedings there on pending final decision on the OA and be pleased to pass such other and further order or orders as the Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

10. NOT APPLICABLE

11. PARTICULARS OF THE BANK DRAFT/POSTAL ORDER FILED IN RESPECT OF THE APPLICATION FEE:

- a. P.O.No:
- b. Date:
- c. Fee: Rs.50/-
- d. Name of the office of issue:
- e. Name of the office payable at:

12. LIST OF ENCLOSURES:

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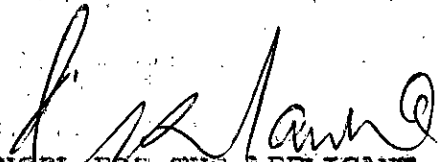
VERIFICATION

I, Dr. P. L. Premi, S/o Shri Late Bhikharilal, aged about 52 years, working as Scientist (Agricultural Entomology), Plant Quarantine Regional Station, (NBPCR), Rajendra Nagar, Hyderabad, do hereby verify that the contents of this application from paras 1 to 4 and 6 to 12 are true to my personal knowledge and information and para 5 believed to be true on legal advice and that I have not suppressed any material facts.

Hyderabad

Dated: 7.12.95

SIGNATURE OF THE APPLICANT

  
COUNSEL FOR THE APPLICANT