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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No.754/97.

Dt. of Decision : 23-03-99.

A. Vishnu Murthy

. Applicant.

Vs

1. The General Manager,
Security Printing Press,
Govt. of India,
Mint Compound,
Hyderabad.

2. B.Ramesh
3. S.Parthasarathy
4. Shahid Taqui
5. K.Srisailam
6. M.I.Khan

. Respondents.

Counsel for the applicant : Mr.P.Naveen Rao

Counsel for the respondents : Mr.V.Rajeswara Rao
Addl.CGSc.

CORAM:-

THE HON'BLAE SHRI R.RANGARAJAN : MEMBER (ADMN.)

THE HON'BLE SHRI B.S.JAI PARAMESHWAR : MEMBER (JUDL.)

ORDER

ORAL ORDER (PER HON.Mr.B.S.JAI PARAMESHWAR : MEMBER (J))

Heard Mr.Phaneraj for Mr.P.Naveen Rao, learned counsel for the applicant and Mr.V.Rajeswara Rao, learned counsel for the respondent No.1. Notices have been served on R-2 to R-6. They are called absent.

2. In response to the notification issued by R-1 for filling up the post of Examiner and Final Counter Cl.II (EFCC-II) the applicant and R-2 to R-6 responded to the same. They were in service candidates. The R-2 to R-6 were selected. However, the applicant could not be selected.

3. Being aggrieved by the selection of R-2 to R-6

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the applicant has filed this OA to call for the records relating to and connected with Daily Order No.34 (Proceedings No.SPP/A.I/3505/95/5706 dated 8-11-95 and set aside the selections made to the post of Examiner and Final Counter Class-II by the method of direct recruitment to the extent of unqualified and ineligible persons and consequently direct the R-1 to conduct a fresh selection strictly in accordance with the Recruitment Rules governing the post.

4. The respondents have filed their counter stating that the applicant could not be selected as he had secured only 33.5 marks out of 100, Whereas the selected candidates viz., R-2 to R-6 had secured between 44 and 69.5 marks. Further they submit that the detailed qualifications possessed by the R-2 to R-6.

5. At the time of hearing the learned counsel for the applicant contended that the Respondent No.2 to 6 had not possessed the necessary qualification as per the recruitment rules. The recruitment rules for the post of Examiner and Final Counter Cl.II (EFCC-II) was issued under proviso ^{to} of Article 309 of the Constitution by the Govt. of India, Ministry of Finance, Dept. of Economic Affairs by notification No.7/5/ dated 09-12-88. Hence the recruitment rules has been framed as per the Constitutional provision. Para-6 under that notification gives the power to relax. This para reads as below:-

"Power to relax: Where the Central Government is of the opinion that it is necessary to expedient so to do, it may, by order and for reasons to be recorded in writing, relax any of the provisions of these rules with respect to any class or category of persons".

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Only that competent authority who has ^{been vested with} ~~endowed~~ power to relax can only relax any of the recruitment rules as prescribed for the post of Examiner and Final Counter Cl.II (EFCC-II). Nobody else can relax the rules other than that competent authority.

6. Para-4 of that notification is the recruitment rules for Examiner and Final Counter Cl.II (EFCC-II). Column-8 gives the educational qualifications to be possessed for considering the case of those candidates who compete for the post of Examiner and Final Counter Cl.II (EFCC-II). The Educational qualification reads as below:-

"Industrial Training Institute Certificate / National Apprenticeship Certificate or VIIIth standard with counters training with elementary knowledge of english and 2 years experience in Binding/Printing Trade.

NOTE:- The qualifications regarding experience is relaxable at the discretion of the Competent Authority in case of candidates belonging to othe SC/STs of the competent authority is of the opinion that sufficient number of candidates from those communities possessing the requisite experience are not likely to be available to fill up the vacancy."

7. The main contention of the applicant in this OA is that the private respondents No.2 to 6 do not possess the educational qualification as prescribed in the recruitment rules. As there was no relaxation for the educational qualifications by the competent authority the recruitment of R-2 to R-6 against those post is irregular. The recommendation of the Principal ⁱⁿ Letter No.GTPT/C/SP/95 dated 30-09-95 (Annexure-R-1) is only a recommendatory nature and it has no force for relaxation of the rules. If R-1 decided to appoint R-2 to R-6 on the basis of the recommendation of the Principal then it is against the rules and cannot be treated that the private respondents No.2 to 6 were given relaxation in regard to the qualifications

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mentioned in the recruitment rules. Thus the whole process of selection is vitiated by not adhering to the recruitment rules and hence the selection has to be set aside.

8. In the reply there is no material available to come to the conclusion that the educational qualification has been relaxed by the competent authority. As the recruitment rules was issued under ^{the} proviso ^{to} of Article 309 of the Constitution we do not think R-1 is the competent ^{authority} to relax the rule. The selection committee has no powers to relax this rules in this connection. Even though the learned counsel for the respondents submits that they have been examined by the selection committee and found fit, such a submission is not in accordance with the rules and has to be rejected.

9. In view of the foregoing, it has to be held that the private respondent No.2 to 6 who do not possess the qualification as prescribed in the recruitment rules are ineligible for being posted as Examiner and Final Counter Cl.II (EFCC-II) even if they have secured more marks. Their selection has to be set aside and to that extent the vacancy arises ^{ing} those vacancies have to be filled by a fresh ^{process,} selection adhering to the recruitment rules.

10. In the result, the following direction is given:-

The Educational qualification of the private respondent No.2 to 6 should be examined and if they do not possess the qualifications as prescribed in the recruitment rules, their selection should be null and void and their services should be terminated. While doing so no consideration should be given to the recommendation of the Principal as ^{the} Principal is not the competent authority to relax the recruitment rules. The vacancy that arises in view of the termination ^{all or any} of R-2 to R-6, those vacancies are


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to be filled ^{by} ~~for~~ issuing a fresh notification. The fresh recruitment should be done in accordance with the recruitment rule.


11. Time for compliance is 4 months from the date of receipt of a copy of this order.

12. With the above observation the OA is ordered accordingly. No order as to costs.


(B. S. JAI PARAMESHWAR)
MEMBER (JUDL.)
23.3.99


(R. RANGARAJAN)
MEMBER (ADMN.)

Dated : The 23rd March, 1999.
(Dictated in the Open Court)


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Copy to:

1. HDHMJ
2. HHRP M(A)
3. HBSOP M(J)
4. D.R. (A)
5. SPARE

9/4/99
IST AND IIND COURT

TYPED BY
COMPARED BY

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APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD.

THE HON'BLE MR. JUSTICE D.H. NASIR:
VICE - CHAIRMAN

THE HON'BLE MR. H. RAJENDRA PRASAD:
MEMBER (A)

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

THE HON'BLE MR. B. S. JAI PARAMESWAR:
MEMBER (J)

DATED: 23/3/99

ORDER/JUDGEMENT

MA./RA./CP. NO. _____

IN

O.A. NO. 754/97

ADMITTED AND INTERIM DIRECTIONS
ISSUED.

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

SRR

