

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

CA.1659/97

dt.4-8-98

Between

Smt. Machiraju Aparna

: Applicant

and

1. Staff Selection Commission
rep. by Dy. Director
1st Floor, E Wing
Kendriya sadan, Block No.2
Koramangala
Bangalore 34

2. The Controller and Auditor
General of India
Govt. of India
New Delhi

: Respondents

Counsel for the applicant

: K.L.N. Rao
Advocate

Counsel for the respondents

: V. Rajeswara Rao
CGSC
By. Parameswar Rao

Coram

Hon. Mr. R. Rangarajan, Member (Admn.)

Hon. Mr. B.S. Jai Parameshwar, Member (Judl)

Jr

[Signature]

OA.1659/97

dt.4-8-98

Order

Oral order (per Hon. Mr. R. Rangarajan, Member (Admn))

Heard Sri K.L.N. Rao for the applicant and Sri V. Rajeswara Rao for the respondents.

1. The applicant in this OA was selected for the post of IDC by Staff Selection Commission and allotted to All India Radio on 29-5-1985. She possesses M.Com degree from Andhra University, Diploma in Library Science, Typewriting Lower and Higher grades, and she underwent computer course in introduction to PCs and Xenix related soft-ware conducted by National Informatics Centre. She had also passed pragra course in Hindi.

2. The Staff Selection Commission issued advertisement No.1/97 inviting applications for the post of Section Officers (Commerical). The upper age is relaxable in the case of Departmental candidates upto 40 years for other candidates, 43 years for OBCs, and 45 for ST/SCs, provided their job has nexus to Section Officer (Comm1.). The relevant portion at para-6.v in the notification granting age relaxation to Departmental candidates reads as below:

"Upper age-limit is relaxable upto the age of 40 years (43 years for OBC and 45 years for SC/ST candidates) as on 13-6-97, to the Departmental candidates who have rendered not less than three years continuous service (on regular basis and not ad-hoc basis) provided they are working in posts which are in the same line or allied cadres and where a relationship could be established that service rendered in the Department will be useful for official discharge of the duties in the other categories of posts in accordance with

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the D/o Personnel & Training's OM Nos.4/4/74-Estt.(D) dated 20-7-76, 35014/4/79-Estt.(D) dated 24-10-85; 15034/3/87-Estt.(D) dated 7-10-87 and 15012/1/88-Estt.(D) dated 20-5-88."

3. The applicant applied for the same and she was admitted for the written examination, but she was not allowed to sit for the interview in view of the impugned letter No.6/1/97-SSC-(KKR) dated 8-12-1997 (Annexure.5). The impugned letter was issued on the ground that her duties as LDC in the All India Radio has no nexus to the duties to Section Officer(Comm1) in the Audit Department.

4. Aggrieved by the impugned order she has filed this OA to set aside the impugned order dated 8-12-1997 (Annex.5) and to hold the same as arbitrary and without any rationale behind it and further declare that she is eligible to appear for the recruitment process of Section Officers(Comm1).

5. An interim order was passed in this OA on 16-12-1997. As per this interim order the respondents were directed to allow her to appear for interview as an interim measure but her results should not be published until further orders in this OA.

6. A reply has been filed in this OA. The main contention of the respondents in their reply are :

i. That the applicant who is a Departmental candidate seeking age relaxation has not satisfied the nexus criteria where a relation ship could be established with the service rendered in the All India Radio would be useful for the efficient discharge of duties as Section Officer(Comm1).

ii. It is stated in the reply that the advertisement clearly states that Section Officer(Comm1.) is required to have first level supervisory charge of a section or ^{head} ^{Audit} a local/Inspection party.

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iii. It is responsibility of the candidate to ensure the same before applying to avoid disappointment at a future date. In spite of the specific requirements included in the advertisement the applicant had applied without checking her eligibility for age relaxation in accordance with para-6.v referred to above.

7. The respondents further submit in para-6 of the reply that the nexus of her duties with the Section Officer(Comm1.) could not be established at the initial stage itself as there were number of other notifications to be scrutinised. Her application was scrutinised after the ^{written} examination was over in consultation with the Headquarters and she was found ineligible as she ^{did} ~~does~~ not fulfil the nexus criteria. Hence, a decision was taken to cancel her candidature. The decision taken is not arbitrary or discriminatory in nature.

8. The applicant contends as follows :

i) The first contention of the applicant is that the duty list of Section Officer(Comm1) was never intimated to the applicant so, as to satisfy herself that she fulfilled the conditions that her duties as LDC have nexus to the duty list of the Section Officer(Comm1.).

ii) She has submitted her Service certificate along with her application. If that service certificate does not comply with the requirement to give age relaxation her candidature should ^{have} ~~be~~ cancelled ^{at the} ~~initial~~ stage itself instead of allowing her to write the examination. Having permitted ^{her} ~~to~~ write the examination, cancellation of her candidature for the said post is illegal, and arbitrary.

9. The learned counsel for the applicant submitted that the nature of duties to be performed as Section Officer(Comm1) has not been indicated initially either in the advertisement

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or in the reply. When the duty list is not available it is not possible for the applicant to judge her eligibility to apply for the post of Section Officer (Comml.) under age relaxation. Hence, the application has to be allowed on that score itself.

10. When we brought to the notice of the statement of the respondents' in reply that a Section Officer (Comml.) is required "to have first level supervisory charge of a section or head a local Audit Inspection party" which is stated in the advertisement the learned counsel for the applicant submitted that if such a statement is available in the advertisement then he may not have a case to further argue. The applicant has to abide by this. However, he further elaborated that mere inclusion of job requirement will not comply with the nature of duties included in the duty list and hence even if the job requirement is indicated it will not be a reason to cancel her candidature.

11. The job requirement as given in the advertisement reads as follows :

"First level supervisory charge of a section or heading a local Inspection Audit Party."

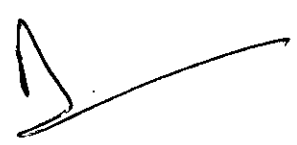
12. The above job requirement clearly indicates what is the job of a Section Officer (Comml.). Even if the duty list is not included, an LDC cannot state that he/she is a first level supervisory charge of a section. LDC is the lowest rung of clerical cadre. There is atleast one or two ranks above even to head a smaller section. Hence, we do not see any further necessity to elaborate on that point by providing duty list. It is also given in the job requirement

that the candidate should head local Inspection Audit party. An LDC cannot be an inspector in auditing not to talk of performing audit jobs. Hence, we do not think any further elaboration is required to amplify the job requirement given in the advertisement by enclosing the duty list. The contention of the applicant in this connection has to be rejected.

13. The second contention of the applicant is that the applicant was allowed to write the examination only after she was found eligible on the basis of her Service Certificate and other documents enclosed to the application. When she was to be called for interview her candidature was cancelled which is irregular. The applicant has not committed any mistake. She has stated her qualifications and other duties performed by her in her application correctly. When this is so, after she had qualified in the written examination her candidature cannot be cancelled. For this the applicant relies on the reported case in AIR 1976 SC 376 (Sri Krishan Vs. Kurukshetra University).

14. The Staff Selection Commission recruits candidates for number of posts in ^{var} different Departments. Most of the posts advertised are for desk type or clerical job or secretarial job. For these posts enormous number of applications are received. Staff Selection Commission conducts the exams, selects the candidates and recommends names for recruitment to various Government agencies. When such is the position it is too much to expect the Staff Selection Commission to minutely scrutinise the applications before allowing ~~the~~ candidates to write for the written examination. Once the

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written examination is over the number of candidates called for interview will be limited. At this stage it is possible for the Commission to examine whether those candidates called for interview fulfil^{ed} all the conditions as required in the advertisement. Hence, if the Staff Selection Commission has not minutely checked the duty nexus of the applicant with that of the duties of Section Officer (Comm1) at the initial stage before allowing her to sit for the examination it cannot be stated that the applicant had acquired a right to sit for the interview also. This view is taken up by us in number of cases earlier. The reported case has to be compared with this case on the basis of the facts of both the cases. In the reported case the candidate who was to appear for a study course was allowed to join a course as he had given details in his application. That judgement has to be seen whether such a relaxation can be given in this case also. In India job availability is very limited and educated candidates waiting for a job is ^{or} common phenomenon. When such a position exists for acquiring a job if ineligible candidates are allowed to sit for the examination it will debar the eligible candidates possessing adequate qualifications and experience to get the job. Hence, the second contention also may not give her the relief.

15. The third contention of the applicant is that she was initially selected by the Staff Selection Commission and was allotted to All India Radio as LDC. If she had been posted in any other job which has a nexus to the duty list of Section Officer (Comm1.) she would have become eligible for consideration for this post. This contention in our opinion has no back-bone. If she has been allotted to All India Radio as LDC which is not to her liking she should have refused that job.

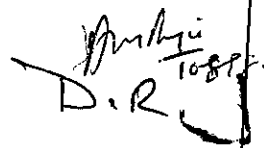
Even if she has no control to get posted in the post of LDC in the department of her liking that will not be a reason to grant relief in this OA.

16. In view of what is stated above we find no merit in this OA. The OA is dismissed. No costs.


(B.S. Jai-Parameshwar)
Member (Judl.)
u.s. 98


(R. Rangarajan)
Member (Admn)

Dated : August 4, 98
Dictated in Open Court


D.R.

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OA.1659/97

Copy to:-

1. Staff Selection Commission, rep. by Dy. Director, 1st Floor, E. Wing Kendriya Sadan, Block No.2, Koramangala, Bangalore-34.
2. The Comptroller and Auditor General of India, Govt. of India, New Delhi.
3. One copy to Mr. K.L.N.Rao, Advocate, CAT., Hyd.
4. One copy to Mr. V.Rajeswara Rao, Addl.CGSC., CAT., Hyd.
5. One copy to D.R.(A), CAT., Hyd.
6. One duplicate copy.
7. one copy to Mr. G. Premiswar Rao; *for file*

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(A)

II COURT

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN : M(A)

AND

THE HON'BLE SHRI B.S. JAI PARAMESHWAR :
M(J)

DATED: 24/8/98

ORDER/JUDGMENT

~~M.A/R.A/C.P.NB.~~

in

C.A. NO.

1659/97

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

~~DISPOSED OF WITH DIRECTIONS~~

DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS

YLKR

