

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH

O.A.925/99

Date: 26/7/2007

Between:

K.Satya Prasad

.. Applicant

A N D

1. The Secretary,  
Union Public Service Commission,  
Shahjahan Road,  
New Delhi.
2. The Secretary,  
Dept. of Food & Civil Supplies,  
Ministry of Food & Consumer Affairs,  
Govt. of India, Krishi Bhavan,  
New Delhi.
3. Shri Bhuvan Chandra Joshi,  
Dy.Director (S&R),  
Save Grain Campaign Office,  
Ministry of Food & Consumer  
Affairs,  
Dept. of Food & Civil Supplies,  
Govt. of India,  
Chandigarh. .. Respondents

Counsel for the applicant : Mr. N.R.Devraj  
Mr. M.V.Krishna Mohan

Counsel for respondents 1&2: Mr. V. Rajeshwar Rao

Counsel for respondent No.3: Mr. N. Ram Mohan Rao

Coram:

Hon. Shri M.V. Natarajan, Member (A)

Hon. Mrs. Bharati Ray, Member (J)

-: O R D E R :-  
(Per Hon. Mrs. Bharati Ray, Member (J))

This application is filed u/s. 19 of  
the Administrative Tribunals Act, 1985 challenging  
the selection of the private respondent (R-3)

Shri Bhuvan Chandra Joshi to the post of

Dy. Director (S&R) in the Ministry of Food & Consumer Affairs, under order No.23/99-ERA dt. 7-5-99 and praying for quashing the said impugned order and for a declaration that the selection and appointment of respondent no.3 as irregular, illegal and arbitrary and for further direction to consider the candidature of the applicant for appointment to the said post.

2. Applicant is at present working as Technical Officer (S&R) in the Save Grain Campaign Regional Office at Hyderabad under the control of Ministry of Food and Consumer Affairs, Dept. of Food and Civil Supplies applied through proper channel for the post of Deputy Director(S&R) in the Ministry of Food, Department of Food Procurement & Distribution in response to Advertisement No.17 in the Employment News dt. 14 - 20, September,1996 and was called for the interview on 27-10-97 along with others. One Sri S.K.Kulkarni was selected for the said post but subsequently the selection of Sri Kulkarni was challenged before the Central Administrative Tribunal, Principal Bench by one Dr.S.C.Bansal on the ground that Sri Kulkarni did not possess the essential eligibility condition and during the pendency of the said OA, UPSC found the said selection as irregular and cancelled the selection of Sri Kulkarni and the said OA was

disposed of as having become infructuous on  
15-9-1998.

3. It is the case of the applicant that sequel to the cancellation of the appointment of Sri Kulkarni the applicant who has done M.Sc. (Zoology) with specialization in "Entomology" which is essential qualification for the post of Dy. Director and also done Ph.D (Doctor of Philosophy) made a representation to respondent No.2 stating that the respondent no.3, the next candidate in the selection list, is not having the required qualification as per notification dt. 14 - 20 September '96 and shall not be considered for the post and requested to do justice. by selecting the eligible person who meets the required qualification and experience as per the said notification, but without considering his representation the Ministry issued the impugned order appointing Sri B.C.Joshi (R-3) for the said post.

4. It is the grievance of the applicant that Sri Joshi (R-3) studied M.Sc.(Botany) with 2nd class from Kumaon University and had studied Plant Pathology as only a paper in his M.Sc. degree course and therefore did not specialise in Plant Pathology which is the essential eligibility condition for the post, whereas applicant is more qualified than that of Sri Joshi

and have the essential eligibility criteria but the authority concerned without considering the above facts appointed Sri Joshi (R-3) in the above post illegally and the same appointment is therefore not proper.

5. Learned counsel for the applicant argued strenuously on the point that applicant studied M.Sc. for two years with four semesters. As a rule all universities where a specialization in any subject at M.Sc. level is offered either in semester system or year wise system, the first two semesters or first year would deal with the general subjects which are compulsory for any student studying M.Sc. and during the final year which again comprises of two semesters, one has to choose a subject for specialization and study the same for the third and fourth semesters. The applicant selected Entomology as his specialization for his 3rd and 4th semester study of final year and there is no other subject than Entomology in the two semesters of the second year. Respondent No.3 studied M.Sc. Botany in yearwise scheme i.e.

Year - I

Paper - I Algae, Bryophyte

Paper - II Bacteria, Fungi, Lichens and Viruses

Paper - III Pteridophytes and Gymnosperms

Paper - VI Cytology, Genetics and Elementary statistics

Year - II

Paper - IV Angiosperms

Paper - V Plant Physiology and Elementary Bio Chemistry

Paper - VII Plant Ecology and Economic Botany

Paper - VIII Plant Pathology

Therefore  
Respondent No.3 has studied Plant Pathology as one of the four subjects in the second year which is of 100 marks whereas the applicant has studied Entomology as a subject of specialization for the whole second year comprising of two semesters or eight papers for 400 marks.

6. It is the grievance of the applicant that respondent again committed mistake in selecting Sri Joshi who does not possess the requisite qualification. Learned counsel in this connection drew out attention to Annexures XIV and XV of the Rejoinder which deals with the Marks for the year 1974 and 1975 respectively of respondent no.3.

7. Learned counsel for the applicant vehemently argued on the point that the Registrar much less the Dy. Registrar are not the proper authorities or functionaries to make observation or comments on such highly sophisticated areas like specialization and as such the certificate issued by the Kumaon University is in fact issued by the Dy. Registrar, stating that the respondent has passed M.Sc. Botany with Plant Pathology as paper of specialization can hardly be an authentic assessment of qualification of respondent no.3 and it is more so when the certificate is captioned as "TO WHOM IT MAY CONCERN". Therefore the act of respondent no.2 to conclude basing on such document that he has received a certificate of confirmation of the claim of respondent no.3 that he is possessing

specialization in Plant Pathology at M.Sc.

Botany and issuing offer of appointment is irregular and that the decision of UPSC to get the qualification verified by the Ministry is not a proper decision.

8. Respondents have contested the application by filing written reply.

9. It is the contention of the respondents

that consequent to cancellation of the candidature of Sri Kulkarni, UPSC vide their letter dt.7-12-98 recommended Sri B.C.Joshi(R-3) the next suitable candidate for appointment as Deputy Director(S&R)

subject to the verification of his claim possessing

specialization in Plant Pathology at M.Sc.(Botany)

level. Accordingly vide department letter dt.24-12-98

(Annexure R-III) the matter was taken up with the

Registrar, Kumaon University, Nainital and to the

reply the Registrar sent them a certificate(Annexure R-IV)

confirming the claim of Sri B.C.Joshi possessing

specialization in Plant Pathology at M.Sc. Botany level and the offer of appointment was issued to him thereafter.

10. Respondents further contended that respondent No.3 who was the next candidate in the select list for appointment was given offer of appointment only after verification of his possessing of specialization in Plant Pathology from the concerned University as such there is no infirmity or irregularity in it and the question of quashing the same does not arise.

11. Learned counsel for the no.1 & 2 respondents submit that since the selection was ~~made~~ made by UPSC and the offer of appointment was issued to the respondent no.3 only after verification of his claim possessing specialization in Plant Pathology from the concerned University the same cannot be said as irregular one. Learned counsel further submitted that there is nothing wrong in verifying the above matter by the department and there is no irregularity in getting the information or confirmation through the Registrar or Dy. Registrar of the University. The decision of the UPSC to verify the qualification/with/bonafide intention to avoid any irregularity which had taken place earlier while appointing Sri Kulkarni. Therefore the said decision cannot be said to be bad and the application

deserves to be dismissed.

12. Respondent No.3 filed a separate reply to the OA. It is his contention that at Master's level as per the scheme of the study, there was a broad range of variations in different Universities. The duration was constant - two years. The courses were divided either into Part-I and II or Six terms or a single consolidated course. Specialization and/or Dissertation for part of the course offered in the 2nd year. As per the scheme of the study in the said University at Master's level, the duration of the course was two years divided into Part I(Previous) and Part II(Final). Specialization formed part of the course offered in the 2nd year. According to the scheme he had taken Plant pathology as his specialization in the 2nd year of M.Sc.(Botany). He had responded to the notification issued by the UPSC in the Employment News, 14 -20 Sept. 1996 and the essential qualifications prescribed for the said post is, Master's Degree in Zoology/Botany with specialization in Entomology/Plant Pathology from a recognized University or equivalent; 5 years experience in teaching/research/extension work, including aspects related to storage and preservation of foodgrains. It is his submission that since <sup>he</sup> has fulfilled the necessary qualification ~~he~~ has been subjected to the selection process. He further submitted

that UPSC recommended his candidature for appointment vide their letter dt. 2-12-1998 wherein it is clearly stated that "the offer of appointment will be made only after the Government have satisfied themselves that he is suitable in all respects for appointment to the service." Accordingly Ministry of Food & Consumer Affairs sent a communication dt. 24-12-98 directing him to produce a copy of the Marksheets of M.Sc. Botany awarded by the Kumaon University for enabling them to take necessary action. The authorities of the University were also approached to verify the correctness and veracity of the statements made by him in the application. This course of action was perhaps adopted to avoid any such mistake that resulted in cancellation of the appointment made in favour of Sri S.K.Kulkarni. It is the contention of the respondent No.3 that the applicant has not shown any reason much less a valid and justifiable one to set aside his appointment, and prays for dismissal of the OA.

13. We have heard the learned counsel for both the parties and perused the records and have gone through the judgments relied upon. It is an admitted position that the essential qualification prescribed for the post of Dy. Director (S&R) in the Ministry of Food, Department of Food Procurement & Distribution are as below :

"(i) Master's Degree in Entomology/ Plant Pathology/Biology/Bio-Chemistry from a recognised University or equivalent or Master's Degree in Agriculture with specialization in Entomology/Plant Pathology Bio-Chemistry from a recognised University or equivalent, or Master's Degree in Zoology/Botany with specialization in Entomology/Plant Pathology from a recognised University or equivalent.

(ii) Five years of experience in teaching/research/extension work, including aspects related to storage and preservation of food grains. "

14. It is not in dispute that applicant got his degree from a recognised University. It is also not in dispute that R-3 was in the 2nd place in the select list. As there was a mistake committed in selecting Sri Kulkarni, UPSC thought it proper to verify the qualification before issuing the appointment letter and advised the Ministry to get the qualification of R-3 verified before issuing the appointment letter and the Ministry got it verified by approaching the Registrar of Kumaon University and after getting confirmation, issued the appointment letter. Approaching Registrar, of a recognised University for getting the confirmation of qualification cannot be said to be unjustified or wrong. UPSC is better situated to judge whether the particular candidate is qualified for a particular post. In the instant case UPSC has selected the respondent No.3 and decided to verify the qualification before issuing the appointment letter.

15.

Under the above circumstances

we do not find any reason to interfere with  
such decision when there is no malafide in it.

16.

Accordingly, OA is dismissed. No order  
as to costs.

*B*  
(BHARATI RAY)  
Member (J)

*M*  
(M.V.NATARAJAN)  
Member (A)

MD

*L*  
2672001

CENTRAL ADMINISTRATIVE TRIBUNAL :HYDERABAD BENCH:HYDERABAD

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4. HBR : MEMBER (JUDL)
5. DEPUTY REGISTRAR (A)
6. SPARE ✓
7. ADVOCATE
8. STANDING COUNSEL

1ST AND 2ND COURT

TYED BY

CHECKED BY *RS*  
APPROVED BY

THE HON'BLE MR. JUSTICE V. RAJA GOPALA REDDY : VICE CHAIRMAN

THE HON'BLE MR. V. NATARAJAN : MEMBER : (ADMIN)

THE HON'BLE MRS. BHARATI RAY : MEMBER : (JUDL)

DATE OF ORDER 26-7-2001

MR/RM/CP NO.

IN

OA NO. 925/99

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