

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

OA No. 387/2001

DATE OF ORDER: 21/7/2002

Dr. G.S. Somawat son of Late Shri K.R. Somawat, Director, National Commission for SC/ST, State Office, C-29, Lal Kothi Scheme, Jaipur 302015 resident of C-62, Bal Nagar, Kartarpura, Jaipur.

....Applicant.

VERSUS

1. Secretary Union Public Service Commission, Shahjahan Road, New Delhi.
2. Secretary, Ministry of Tribal Affairs, Shastri Bhawan, New Delhi.

....Respondents.

None present for the applicant.

Mr. P.C. Sharma, Proxy counsel for

Mr. Sanjay Pareek, Counsel for the respondents.

CORAM

Hon'ble Mr. A.P. Nagrath, Member (Administrative)

Hon'ble Mr. J.K. Kaushik, Member (Judicial)

ORDER

PER HON'BLE MR. A.P. NAGRATH, MEMBER (ADMINISTRATIVE)

Union Public Service Commission (UPSC) had advertised some posts for recruitment in March, 2001. This advertisement included one post of Director (Tribal Wing) in the pay scale of Rs. 14300-18300 in Ministry of Tribal Affairs. This post was unreserved. The essential qualification prescribed for this post were as under :-

Essential Qualification:

A. Educational:

Master's degree in Sociology/Social Work/Anthropology/Economics/Mathematics/Statistics of a recognised University or equivalent.

B. Experience

Twelve years' experience of Research/ Training/ Planning/ Evaluation/ Plan & Project formulation relating to problems of Scheduled Tribes & Tribal Areas out of which 5 years shall be related to Supervision/ Direction of such programmes in the field.

Note: The qualification are relaxable at Commission's discretion in the case of candidates otherwise well qualified.

Desirable Qualification

Doctorate Degree in the relevant field from a recognised university or equivalent or evidence published work in the relevant field.

2. The applicant, who is already working as Director in the National Commission for SC/STs also applied for this post and was allotted Roll No. 32. UPSC had fixed the date of interview as 28 & 29.5.2001 to be held at New Delhi. The applicant was not called for this interview. He submitted a representation to the UPSC on 16.8.2001 but did not receive any reply. He has come before us by filing this OA with the following prayers:-

(a) The respondents may be directed to allow provisionally the applicant to be interviewed alongwith other candidates to the post of Director on dated 28.8.2001 or 29.8.2001.

(b) The selection result for the post of Director may please be stayed till the present application is finally decided by the Hon'ble Tribunal.

(c) Direct the respondents to readvertise the post on the grounds that age relaxation given to the internal candidates was illegally to make selection to a specific candidate who has been allowed relaxation. The age relaxation should be allowed for candidates, after publishing in the mass media for providing fair and equal opportunity to all.

(d) To pass an order directing the respondents to pay all



the legal cost and other expenditure incurred in the matter.

(e) Any other order or orders as are deemed fit and proper in the interest of justice and the facts and circumstances of the case may kindly be passed in favour of the applicant.


3. As per averments made in the OA, the apprehension of the applicant is that he was not called for the interview primarily for the reason that his experience as Lecturer in Rural Sociology has been ignored by UPSC, though according to him, this assignment was connected with training, planning & project formulation relating to the problems of ST & Tribal areas. In his capacity as a Lecturer in Rural Sociology, he was arranging training programmes for the officers of 15 North and North-Eastern States specially covering the SC/STs components and the programmes were designed to cover certain percentage of beneficiaries from these categories. His plea is that he had submitted the required experience certificates alongwith his application but the same has been ignored. He has further alleged that while he is in a senior position of Director, he has not been called, while his juniors from Joint cadre belonging to Ministry of Social Justice & Empowerment and National Commission for SC/ST have been called for the interview. Apart from his experience as Lecturer in Rural Sociology, the applicant submits that even an Officer of National Commission for SC/ST, he had acquired the requisite experience as the date of joining as Deputy Director in the National Commission for SC/STs has been changed to 23.11.88 as against 9.4.91 (when he actually joined on that post), in pursuance of order of this Bench of the Tribunal in OA No. 536/95 decided on 2.3.2001. In that view, applicant claims that he acquired more than 12 years' of service as Deputy Director & Director (Joint cadre), Ministry of Social Justice & Empowerment and National Commission for SC/ST. He is also aggrieved that his juniors of the same cadre have been called. The applicant also expressed strong apprehension that one Shri P.K. Mohanti, Joint Director in Ministry of Tribal Affairs was being called by granting age relaxation. The grounds raised by the

applicant primarily are that he possesses essential qualification as prescribed for the post and that he is being ignored in comparison to those who are less qualified and also who are junior to him. His apprehension is that favour is being shown to Shri P.K. Mohanti by granting age relaxation.

4. By virtue of interim direction of this Bench dated 27.8.2001, respondent No. 1 was directed to allow the applicant to appear for the interview provisionally but the result of the selection was required to be kept in sealed cover which shall not be published without prior permission of this Tribunal.

5. UPSC has filed the reply repelling all the contention of the applicant. Respondents have also produced three sealed covers containing vital documents, for our perusal which include the short listing procedure adopted, proceedings of the interview and a cover containing final recommendations. We have perused the documents related to short listing procedure adopted as also the proceeding of the interview but we have decided not to open the cover containing final recommendation of the Selection Committee, as we have considered that as not necessary.

6. We have perused the reply filed on behalf of UPSC and also heard the learned counsel for the parties. From the reply of the respondents and documents seen by us, we find that the allegation of the applicant that age relaxation was granted to Shri P.K. Mohanti who was being shown special favour has absolutely no basis and the same deserves to be rejected. The only point which requires our consideration is whether the applicant should have been called by UPSC for interview. In so far as his educational qualification is concerned, the matter is not in dispute. The reason for not calling the applicant, according to the respondents, is that he did not possess the essential qualification 'B' i.e.



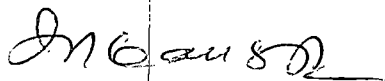
Experience.' As per requirement published in the advertisement, Essential Qualification is 12 years' experience of research/training/ planning/evaluation/plan and project formulation relating to problems of Scheduled Tribes and tribal areas out of which five years shall be related to the supervision/direction of such programmes in the field. In so far as requirement of five years experience for supervision/direction is concerned, the applicant undoubtedly possess that. The question whether his experience as a Lecturer in Rural Sociology should have been totally ignored . We find that out of 141 candidates, 18 were short listed. Out of these 18, only 8 were found to have satisfied essential conditions of educational qualification and experience. 10 candidates were called provisionally. We have scanned the reasons behind declaring 10 candidates as provisional. We find that information submitted by them in respect of their experience was not to the satisfaction of the UPSC and they were required to produce necessary certificates at the time of interview. All these 18 candidates were assessed in the interview as also the applicant, ofcourse, in pursuance of the interim order of this Tribunal. We also find that some candidates even at the time of interview did not produce the relevant certificates. We are unable to comprehend how distinction was made for such persons who have been provisionally called and the applicant who claimed requisite experience including that of Lecturer in Rural Sociology was not called with the same stipulations attached as was done with 10 others. We are fully cognisant that UPSC are vested with powers to devise the manner of selection and to decide norms vis-avis prescribed essential qualification for short listing purposes but it is also a fact that while scrutinising the certificates of the individuals, possibilities of drawing subjective conclusion could occur. In the instant case, as a Lecturer in Rural Sociology, the applicant was imparting training to officers from 15 North and North-Eastern States. Many of the North Eastern States are predominantly Tribal areas. As a Lecturer, the applicant was imparting training and training relating to tribal development is one of the prescribed requirements. This was a grey area for which the



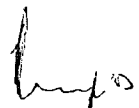
applicant could have been asked to clarify during interview. We are not able to appreciate as to how the applicant's tenure as a Lecturer was totally ignored and as to how his candidature could also not be made provisional as had been done in 10 other cases. Having said that, we also find that in pursuance of the order of this Tribunal in OA No. 536/95, the date of applicant's joining was changed to 23.8.88 as against 9.4.91. This means that applicant has to be considered as an officer of the National Commission for SC/ST w.e.f. 23.8.88. By reckoning this date, he had obviously completed 12 years as Deputy Director/Director in the National Commission for SC/ST. In this view, we find that there is a merit in the claim of the applicant that he should have been called for interview. The applicant has appeared in the interview provisionally in pursuance of our interim order and we decide that he had the right to appear in the interview notwithstanding our other conclusion that total exclusion of the applicant's tenure as a Lecturer in Rural Sociology was also erroneous. The result of the said interview is in the sealed cover which, after receipt of a copy of this order, the UPSC can release.

7. In view of the discussion in the preceeding paragraphs, we dispose of this OA as follows:-

"The applicant shall be considered as eligible to appear in the interview for the post of Director for Tribal Development as advertised by UPSC in Employment News dated 10.3.2001. He has already appeared in the said interview though provisionally in pursuance of our interim orders, which now be treated as final orders. The UPSC is now free to open sealed cover containing the result of 19 candidates including the applicant for the said selection and to declare the same. There shall be no order as to costs.



(J.K. KAUSHIK)
MEMBER (J)



(A.P. NAGRATH)
MEMBER (A)