

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

OA 282/2015

New Delhi, this the 14th day of December, 2016

**Hon'ble Mr. Justice M.S. Sullar, Member (J)
Hon'ble Mr. P.K. Basu, Member (A)**

Dr. Venkateshwaran V.
S/o Shri R. Veerappan
R/o WZ 864 B/2 Naraina Village Delhi
New Delhi-110028 ...Applicant

(Through Shri Vaibhav Kalra with Shri Jasbir Bidhuri, Advocates)

Versus

1. Union Public Service Commission
Dholpur House
Shahjahan Road,
New Delhi-110069
2. Secretary,
Department of Agriculture and Cooperation
Ministry of Agriculture,
Krishi Bhawan,
New Delhi-110001
3. Ms. Gayatri Devi Konda
Extension Officer, Krishi Vistar Sadan,
CTO, Directorate of Extension
Department of Agriculture and Cooperation
Pusa, New Delhi-110012

.... Respondents

(Through Shri Ravinder Aggarwal with Shri Amit Yadav, for respondent no.1
Shri Gyanendra Singh, for respondent no.2
None for respondent no.3

ORDER (Oral)Mr. P.K. Basu, Member (A)

The Ministry of Agriculture invited applications for two posts of Extension Officer in Directorate of Extension, Pusa, New Delhi vide advertisement no.08/2013 published in Employment News dated 8-14 June, 2013. This was appointment by direct recruitment for which one post was reserved for OBC candidates. In September, 2013, the Ministry issued a vacancy circular for filling up one post of Extension Officer in the Directorate of Extension on deputation basis from amongst the officers of Central Government/State Government. The essential qualifications for the post for both the notifications of vacancies were as follows:

“Essential

- (i) Master Degree in Agriculture/ Agriculture Extension/ Any of the Agricultural Sciences from a recognized University or equivalent or MBA with B.Sc. (Agriculture) from a recognized institute or equivalent or Master Degree in Rural Management from a recognized institute or equivalent.
- (ii) 3 years' experience in Agricultural Extension work.”

2. The applicant was not selected for the direct recruit post and informed that his selection has not taken place because he does not possess the necessary qualification of three years experience in agricultural extension work. He was, however,

selected for the post of Extension Officer on deputation basis against vacancy circular of September, 2013. Respondent No.3, namely, Ms. Gayatri Devi Konda, was selected against direct recruitment post meant for OBC candidate. Being aggrieved by the fact that the respondents have not selected him against direct recruitment quota but selected respondent no. 3, who according to the applicant is not eligible, the applicant has filed the present OA seeking the following reliefs:

- (i) To set aside the selection made by the Respondent through direct recruitment for the reserved post of Extension Officer advertized under Vacancy no. 13060801508 in Adv. No.08/2013;
- (ii) To convert the present post of the Applicant of Extension Officer on deputation basis to the post of Extension Officer through direct recruitment from the date of appointment of the applicant at the said post on deputation basis.

3. Learned counsel for the applicant advanced the following arguments in support of the OA:

- (i) When the respondents have selected the applicant for the post of Extension Officer on deputation basis requiring the same essential qualification of three years agricultural extension experience as required for direct recruitment post, his rejection on the ground that he does not possess experience for direct recruitment against OBC quota post is absolutely arbitrary.

(ii) Respondent No. 3, Ms. Gayatri Devi Konda has experience as Senior Research Fellow with National Agricultural Innovation Project (NAIP) under the Central Research Institute for Dryland Agriculture. The office orders issued by NAIP dated 1.11.2007, 30.09.2008 and 14.02.2011 (Annexure A-10 colly) obtained by the applicant through RTI have been placed in support of this. Further, Annexure A-9 is also a reply to an RTI application in which the experience of respondent no.3 has been indicated as Senior Research Fellow and Research Associate with NAIP totaling three years. It is the case of the applicant that nowhere it is indicated that respondent no.3 has three years experience of extension work.

4. The applicant received reply dated 1.07.2014 (Annexure A-7) to his RTI application wherein the respondents have informed him that his application for the post has been rejected under the category "Lacking Essential Qualification-B i.e. Experience." Along with this letter, the respondents have also filed scrutiny notes, which record as follows:

"9. The ORA Cell provides lists of all 82 candidates belonging to OBC category and of all 111 candidates belonging to unreserved category who had applied online in response to the advertisement for the post. A perusal of these lists revealed that a majority of candidates possess the minimum prescribed

essential qualifications. In order to restrict to a reasonable limit the number of candidates to be called for interview and also keeping in view the number of posts available we adopted the criteria of EQ A + EQ B (Experience enhanced to 4 years or more for short-listing the applications.)"

5. On the basis of the above criteria, nine candidates were found suitable to be called for interview in which the applicant's name was also included. The name of respondent no.3 was not included as being unfit for calling for interview. After this preliminary screening by the Under Secretary, the matter was submitted to the Deputy Secretary who, inter alia, suggested as follows:

"6. The following modalities are proposed to be adopted for short-listing of candidates:

- i) PS has been done on the basis of information filled up by the candidates in the application submitted online.
- ii) Applications of candidates who have not uploaded their Experience Certificates along with their application and candidates who uploaded only Office Orders of posting and transfer or letters of offers of appointment or letters of resignation have been rejected under the category "Incomplete Applications".
- iii) Experience acquired in jobs/work on part-time basis or hourly basis or daily wage-basis/visiting/as Guest faculty/as trainee (unless followed by regular appointment in the same organization) or in jobs in an honorary capacity or self-employment or under self-financing scheme has not been counted, while counting experience. But experience on contract basis and experience in extension work in candidate receives stipend has been considered.
- iv) Experience in any employment which is not related to agricultural extension work has not

been considered relevant. Similarly work related to collection of data or statistics on agriculture, research work, export of some pesticides or chemicals, teaching agricultural subjects with no relevance to extension programmes or dissemination of data to and training of other people associated with some research work in agriculture or work of collection of land use data or in extension activities in the food processing in general establishment or animal nutrition or administrative work or experience in agricultural insurance work or workers' education have not been taken as experience relevant for the post. Experience in teaching agricultural extension at the College level has been considered as relevant."

In fact, in para 7.1, the following has also been noted by the Deputy Secretary:

- "7.1 In the case of the post reserved for OBC candidates, it was found that 82 candidates had applied. To restrict the number of candidates to around 12, an attempt was initially made to scrutinise the applications of those candidates claiming experience of 5 years or more. However, as it was found that very few candidates actually had 5 years' experience the list was expanded to those with experience of 4 years or more finally to those who had claimed the prescribed minimum of 3 years as it was ultimately found that only 09 candidates actually fulfilled the essential qualifications. The remaining applications have been rejected on different grounds explained in succeeding paragraphs.
- 7.2 For the unreserved post, the experience qualification was raised to 4 years or more to get the right number of candidates. Thus, the applications of 68 candidates who had claimed experience of 4 years or more were scrutinised and 10 candidates were short-listed. The remaining applications have been rejected on different grounds as explained in the succeeding paragraphs."

6. The contention of the learned counsel for the applicant is that the rules of the game were changed in between as above para 6 criteria was not in the advertisement. In fact, he states that as a result of increase in experience qualification from three years to four years, respondent no.3 was eliminated but again when the condition was relaxed to three years, respondent no.3 got included. But this time, the applicant got rejected because the Deputy Secretary held that he did not satisfy the eligibility criteria and the matter was put up to the Member, Union Public Service Commission (UPSC), who approved the proposal.

7. It is next contended that the respondents are incorrect in stating that the applicant does not have requisite experience as his bio-data shows that he has functioned as an Ad hoc Senior Research Associate and Research Associate with ICAR Institute, then as Permanent Field Assistant with ICAR and later on as Inspector/ Junior Inspecting Officer in the Ministry of Food Processing Industries. It is stated that in all, he has eleven years experience and since Food Processing is also part of agriculture, his experience of eleven years has to be counted as agricultural extension experience. In this regard, he has also placed before us reply dated 30.09.2015 received from CIPHET, an ICAR institute that food processing is an integral part of agriculture and extension services rendered in the field of food processing is a part of Agriculture Extension also.

8. Learned counsel for the respondents, first of all, raised the question of limitation stating that the appointment had been done in 2013 and the applicant has filed this OA in January 2015. Further, no application for condonation of delay has been filed by the applicant and, therefore, this OA not being maintainable on the ground of limitation, should be dismissed as such.

9. On merits of the case, the respondents clarified that there was no increase in experience from three years to four years for OBC candidates. Further, para 6 (iii) of the Deputy Secretary's note, quoted above, stipulates "But experience on contract basis and experience in extension work in candidate receiving stipend has been considered." It is thus argued that experience of respondent no.3 cannot be discounted just because she was on contract basis. It is further submitted on behalf of respondents that agricultural extension officers are intermediaries between research and farmers. They operate as facilitators and communicators, helping farmers in their decision making and ensuring that appropriate knowledge is imparted to them to obtain the best results. It is contended that it is very essential that candidates selected for the Extension Officer post have experience of communicating with scientists on the one hand and the farmers on the other and that is why experience in food processing area has not been counted for the purpose in case of the applicant.

10. Regarding the contention of the applicant that the respondents have selected him on deputation post indicates that the respondents accepted that the applicant fulfils experience criteria, learned counsel for the respondents states that this cannot be a ground to claim appointment against direct recruitment quota as one mistake does not justify another and the applicant cannot take benefit of negative equality.

11. Despite notice and despite her appearance on 18.08.2015, respondent no.3 has not chosen to file her counter.

12. We have heard the learned counsel for the parties and gone through the pleadings available on record.

13. From the facts and documents placed on record, there is no doubt that the applicant is far more qualified and far more experienced than respondent no.3. The applicant is also a Ph.D in Food Biotechnology. A Research Associate or Senior Research Fellow is not appointed by NAIP to do extension work. The respondents have also not been able to demonstrate in any way how a research fellow or research associate experience is construed to be experience in extension work. *Prima facie*, it is not.

14. From the reply dated 30.09.2015 from CIPHET, it becomes clear that food processing is an integral part of agriculture and extension services rendered in the field of food processing is a part of agriculture extension. Therefore, there is no reason for the respondents to take the stand that experience of extension

work in the area of food processing will not count for agriculture extension experience. Furthermore, we do not accept the argument of the learned counsel for the respondents that the applicant is seeking benefit of negative equality by stating that if the respondents have found his experience to be valid and appointed him on deputation basis to the post of Extension Officer, then there is no reason to hold him lacking in experience for direct recruitment post for the simple reason that both the decisions have been taken at the same time and the respondents action, therefore, appears to be completely whimsical, which cannot be sustained.

15. As already stated, the applicant is almost four times more experienced than respondent no. 3 and is also much more qualified than her. The action of the respondents in selecting him for the deputation post as well as the reply of CIPHET stating that extension work in food processing should be counted towards experience in agriculture extension fully, justifies the claim of the applicant that he has the requisite experience for the post. Rather, counting the period spent by respondent no. 3 as research fellow associate in NAIP Project on contract basis as fulfilling the criteria of experience, raises questions about the integrity of the process adopted by the respondents. There is obviously more than meets the eye. There is no doubt in our minds that injustice has been done to the applicant.

16. We, therefore, set aside the selection of Respondent No.3 made by the respondents through direct recruitment on the post

reserved for OBC and direct the respondents to appoint the applicant as Extension Officer against the direct recruitment post reserved for OBC with effect from the date of appointment of the applicant on deputation. We fix a time frame of 90 days from the date of receipt of a certified copy of this order for implementation of our directions. No costs.

(P.K. Basu)
Member (A)

(Justice M.S. Sullar)
Member (J)

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