

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH**

**OA No. 1842/2012**

Reserved on                    29.04.2016  
Pronounced on            09.05.2016

**HON'BLE MR.P.K.BASU, MEMBER (A)**  
**HON'BLE DR.BRAHM AVTAR AGRAWAL, M (J)**

Mr. Mohan Lal,  
S/o Shri Dal Chand, Aged 42 years,  
R/o-28A, DDA Flats, Mansarovar Park,  
Shahdara, Delhi-110032

... Applicant

(By Advocate: Shri Ajay Veer Singh Jain with  
Ms. Devya Garg and Shri Uday Ram )

**VERSUS**

1. Union Public Service Commission  
Through its Chairman,  
Dholpur House, Shahjahan Road,  
New Delhi.
2. Commissioner,  
South Delhi Municipal Corporation,  
Dr.S.P.Civic Centre, Minto Road,  
Jawaharlal Nehru Marg,  
New Delhi-110002
3. Director, Directorate of Education,  
Old Secretariat, Delhi-110054
4. Deputy Director of Education,  
District West-B, G Block, Vikas Puri,  
Delhi-110018
5. Sh.Surender Kumar Bhandoria,  
PET on lien from GBSSS Bindapur,  
New Delhi-59 through Director of Education,  
GNCTD also through Principal, GBSSS,  
Bindapur, Delhi-110059

... Respondents

(By Advocate: Shri Naresh Kaushik for R-1, Shri Rahul Singh for R-2,  
Shri Anmol Pandita for Shri Vijay Pandita for R-3 & R-4  
and Shri M.K.Bhardwaj for R-5)

## **ORDER**

### **Hon'ble Mr.P.K.Babu, Member (A):**

The applicant applied for the post of Assistant Education Officer (AEO) advertised by the Union Public Service Commission (UPSC) in 2010. He was called for interview, but not declared successful. There was a single post and one Shri S.K. Bhandoria (R-5) was selected.

2. The case of the applicant is that in the advertisement, the UPSC had stipulated two years of administrative experience under the column "experience". It is alleged that he came to know later that Shri Bhandoria did not have this two years experience. In this regard, learned counsel drew our attention to an internal note of the UPSC obtained by him through application under Right to Information Act, 2005 and reply thereto by the UPSC on 30.03.2012 (Annexure A-7), the internal note stated as follows:-

"3. Shri S.K.Bhandoria (Roll No.81) was interviewed provisional on 8<sup>th</sup> April, 2011 (OBC) for want of experience certificate from 25.2.1997 to 12.8.210 i.e. closing date from Directorate of Education. The candidate had submitted his experience certificate, which was checked and verified in the Commission and his candidature was cleared vide page at 45/n/ante.

4. As regards allegation of Shri Mohan Lal regarding administrative experience of Shri S.K.Bhandoria, it is stated that though application dossier of Shri Bhandoria is not available in the Commission, attention is invited to para 4 (iii and iv) at page 31/n. According to which "experience of organizing of sports events /competitions /tournaments etc. may also be counted towards administrative experience" and "it is seen that it is difficult to segregate the training part and administrative part. Hence the joint experience in both the fields has been considered towards total of requisite 7 years experience".

From the above, the applicant concludes that interview on 8.04.2011 was provisional "for want of experience certificate".

Secondly, they had clubbed various experiences to arrive at a total of 7 years experience which was in contradiction to the stipulation of two years administrative experience stipulated in the advertisement and therefore, contended that the respondents have changed the rules of the game in between and the settled law in this regard is that in case the rules of the game are changed in between the process, the process is vitiated. He, therefore, prays for cancellation of the selection process. In fact, the exact prayer is as follows:-

"1). An appropriate direction to the respondent No.1 & 2 to terminate the services of respondent No.5 with immediate effect being him a person of dubious character and doubtful integrity clearly unbecoming of a Govt. Servant.

2). Allow the applicant to join against the Respondent No.5 or renotify the post of AEO (Phy) with respondent No.2 to be filled up fairly afresh.

3). Respondent no. 3 & 4 be also directed to cancel the lien granted to respondent no.5 and issue call back notice to respondent No. 5 & further to initiate disciplinary proceedings against respondent no. 5 as per conduct Rules since the respondent no. 5 has not only played gimmicks tricks but also has kept the Directorate of Education in dark while seeking appointment as PET on the basis of fraudulently obtained M.P Ed degree together with other repeated committed misconducts there after.

4. Declare the decision of respondent no.1 as illegal in considering joint experience of respondent no.5 as total of 7 years experience as the same is not a condition of Recruitment Rules and the same being a closed room decision is totally illegal and not acceptable in the eyes of law since the same was not communicated even to the candidates under zone of consideration for the said post.

5. Such other/further order this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case be also passed in favour of the petitioner and against the respondents, in the interest of justice."

3. Learned counsel for the respondents drew our attention to A-7 which has been filed by the applicant himself which contains a note dated 3.10.2011 on the subject of recruitment to one post of AEO

(Phy.) in the Municipal Corporation of Delhi (MCD). We quote below the relevant portion of the note:-

"Notes from page 62/N ante may kindly be perused. Secretary, vide his observation made at page 63/N ante, has desired to clarify whether UPSC should clear up on the point of experience by going through the dossier again. In this regard, it is submitted that the requisite dossier in respect of concerned candidate viz Shri Surender Kumar Bhandoria, Roll No. 81, has been recalled from the MCD and placed herebelow. As desired, the matter has been examined with reference to the documents/experience certificates originally produced by the applicant along with his application on the basis of which his candidature was short listed to be called for interview for the instant post.

2. In this context, it is also mentioned that as per essential qualifications regarding 'experience', it requires 'seven years' experience in imparting training in physical education in Educational Institute/Youth Welfare Camps with two years 'administrative experience'. Taking into account this essential qualification, the following modalities were inter-alia adopted while doing scrutiny of this recruitment case as mentioned at page 31/N ante:-

(i) As per IFC the EQ of experience is read as 'seven years' experience in imparting training in physical education in Educational Institute/Youth Welfare Camps with two years 'administrative experience'. In this context it is proposed that the experience of organizing of sports events /competitions/tournaments etc. may also be counted towards administrative experience.

(ii) From the experience certificate submitted by the candidates it is seen that it is difficult to segregate the training part and administrative part. Hence, the joint experience in both the fields has been considered towards total of requisite seven years experience."

Based on this note, it is stated that it would be clear that the stand of the applicant is incorrect as the dossier relating to Shri S.K.Bhandoria had been recalled from MCD and examined by UPSC with respect to his experience certificate and it is not true that the UPSC did not have his dossier.

4. It is further pointed out that the candidature of applicant viz Shri Mohan Lal (Roll No. 74), in the initial scrutiny, was rejected under 'overage' category as his date of birth was 15.05.1969 and the maximum age was 40 years as on the closing date, i.e. 12.08.2010. However, thereafter on consideration of his representation dated nil (which was received in the Commission on 24.03.2011) in which he informed that he has more than 13 years experience in Directorate of Education, GNCT of Delhi and also that he is a government servant and also attached a certificate from his parent employer, i.e. Directorate of Education, GNCT of Delhi in support of his claim, the Commission called him also for the interview alongwith other candidates. In his original application, he did not claim any age relaxation and put "2" both in reply of the columns in the application form, viz., "Is any age relaxation being claimed? which implies "No" and also in reply of "Whether Central/U.T. Government servant" which also means "No". Learned counsel, therefore, emphasized that the respondents have only been fair to the applicant and there was no bias against him.

5. It is also submitted that in the interview, respondent No. 5 secured 70 marks whereas the applicant herein got only 42 marks and consequently could not establish his merit for recommendation of process. In fact, there were other candidates above the applicant and below R-5.

6. In the end, learned counsel for the respondents stated that this OA is a clear abuse of process of law and in the nature of PIL and PILs cannot be gone into by this Tribunal. He, therefore, urged that in order to discourage such frivolous time wasting litigation, cost may be imposed on the applicant.

7. The learned counsel for the applicant in his reply to the point raised by learned respondents counsel submitted that this is not in the nature of PIL and as an applicant in the process of selection, he has every right to demand a fair process which has not taken place in this case. He further drew our attention to annexure 8, column 10 of the attestation form filled in by R-5 and points out the last entry under column 10 is regarding his Master of Physical Education examination where the date of entry is shown as 1999 and date of leaving as 2000- 2001. This is pointed out in conjunction with Annexure A- 9 which is the degree of R-5 of Master of Physical Education and it is pointed out that this degree is of March/April, 1995. The contention of the learned counsel, therefore, is that either the Master of Physical Education was acquired by him in 2000-2001 or in 1995 and, therefore, one of the certificates is definitely a false certificate. He also drew our attention to annexure A-10 which is a certificate issued by Mother's International School dated 26.08.1996 certifying that R-5 has completed one year of service in November 1995 and has since been confirmed as a teacher. The contention is that if in 1995 or in 1996 he was a teacher then how come he got his Master of Physical Education in the same year 1995 as per A-9 and the learned counsel for the applicant raises the contention that perhaps one of his document is forged.

8. Heard the learned counsel and perused the records and written statement filed by R-5.

9. The facts of the case are that there was open advertisement by the UPSC for the post of AEO (Physical). The applicant applied along with others. The UPSC completed the process and selected R-5. The

applicant has questioned the selection process of R-5. His ground for questioning the selection of R-5 is that the process has not been fair.

10. There is no doubt in our mind that this is in the nature of a PIL as contended by the learned counsel for the respondents and clearly this Tribunal is not a forum for PIL. The OA, therefore, deserves to be dismissed on this ground itself. However, since the applicant has raised several other issues, we proceed to go into that as well.

11. The applicant's second contention is that R-5 was cleared without even the dossier being available with the UPSC. This has been clearly contradicted by the document referred to by the learned counsel for the respondents and incidentally which has been produced by the applicant himself, namely, the note sheet of UPSC which clearly states that the dossier was obtained by the UPSC from the requisitioning department, so clearly this is an attempt by the applicant to mislead the Tribunal.

12. As regards, changing the rules of the game as alleged by the learned counsel for the applicant, we are not convinced at all. It is true that the experience of two years was required and the UPSC has done detailed exercised to work that out and ascertain what will count for that period and what will not. There was no change in the rule of the game. Therefore, this argument of the learned counsel for the applicant is also rejected.

13. The last stand taken by the learned counsel for the applicant is that, inferring from certain entries in the attestation form and certificate it can be summarized that some documents are forged. This is only a conjecture and cannot be accepted as argument before us. In

fact, in their reply the respondents have in detail explained modalities adopted while scrutiny of this recruitment case. It was a comprehensive process which has been explained in detail in the brief facts of the case. In fact, it is stated that R-5 also possessed M.Phil and Ph.d in physical Education. He was appointed Observer by CBSE for CBSE National Taekwondo Championship, 2009. To say that this candidate does not have sufficient administrative experience is ridiculous, to say the least.

14. From the above facts and circumstances, we are of the opinion that:-

(a) this OA is not maintainable at all as it is in the nature of PIL;  
and

(b) even on merits we are completely satisfied that the UPSC has done a very fair and thorough process and selected the best candidate. The candidate selected obtained 70% marks, whereas the applicant obtained 42% marks. Instead of accepting that a better candidate has been selected, the applicant filed this OA making wild and unsubstantiated allegations, which we conclude could only be with the intention of harassing the respondents and an attempt to bring down the image of an institution like the Union Public Service Commission, which has a very high reputation in this country. We are, therefore, in total agreement with the learned counsel for the respondents that this OA is a complete abuse of the process of law and such misadventures by individuals should be checked and a message sent to all such polluted minds that such conduct is not at all acceptable and nobody should dare to undertake such adventures trying to malign respected institutions such as the UPSC. We, therefore,

dismiss this OA with the imposition of cost of Rupees 50,000/-  
(Rupees fifty thousand only ) on the applicant to be paid to the  
respondents within a period of one month.

**(Dr.BRAHM AVTAR AGRAWAL)**  
**MEMBER (J)**

**( P.K.BASU)**  
**MEMBER (A)**

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