

Central Administrative Tribunal
Principal Bench
New Delhi

O.A.No.2227/2011

Order Reserved on: 06.02.2017
Order pronounced on 08.03.2017

Hon'ble Shri V. Ajay Kumar, Member (J)
Hon'ble Shri P. K. Basu, Member (A)

1. Sandeep Kumar
Aged 32 years
SC Category
S/o Shri Raghbir Singh
R/o H.No.872/29, St.NO.2
Dev Nagar Kakroi Road
Sonepat Haryana
2. Bikash Behera
Aged 29 years
SC Category
S/o Cheneshwar Behera
R/o At Kaudikhani, P.O. Bhatapada
Via nirakarpur, Distt. Puri
Orissa.
3. Javed Naseem
Aged 30 years
General Category
S/o Sh. Naseem Akhter
R/o Vill & P.O. Sirchandi
Tehsil-Roorkee, Distt. Haridwar
Uttarakhand
4. Amit Kumar
Aged 29 years
General Category

S/o Mr. Raj Kumar
 R/o Vill. Ganghari, P.O. Khatauli
 Distt. Muzaffar Nagar, U.P.

5. Heigrujam Manglem Singh
 Aged 29 years
 OBC category
 S/o H. Mohan Singh
 R/o Khoggon Sapma Maning Leikai
 P.O. Wangging, PS Kaching
 Distt. Thoubal, Manipur.

6. Kavitha Gopinath
 Aged 32 years
 OBC category
 W/o Bala Murli B.
 Sreragam Vandiperiyar
 P.O. Vandiperiyar
 Distt. Idukki, Kerala. ... Applicants

(By Advocate: Sh. M.K.Bhardwaj and Shri M.D.Jangra)

Versus

1. Staff Selection Commission
 Through its Chairman
 CGO Complex
 Lodhi Road, New Delhi.

2. Director General
 National Archives of India
 Janpath, New Delhi.

3. Union of India
 Through Secretary
 M/o Culture
 Shastri Bhawan
 New Delhi.

4. Sanjeev Kumar
 S/o Joginder Singh
 SC category
 R/o Village Kasithal
 P.O. Bhagwanpur
 Distt. Kurukshetra, Haryana.

5. Parveen
 S/o Sh. Amar Singh
 SC category
 R/o H.No.819, Gali No.13
 Surya Nagar, Hissar
 Haryana.

6. Ms. Sadaf Akhtar
 D/o Akhtar Hussain
 General Category
 R/o F 13/12A, 3rd Floor
 Jogabai Estn., Jamia Nagar
 New Delhi -110 025.

7. Khadim Hussain
 S/o Haji Kazim Shara
 ST Category
 R/o Shory Muhallah
 Poyen Kargil, Ladakh
 J&K

8. Ms. Deepti
 D/o Om Kanwar Rana
 R/o A Block, Pkt-2
 Flat No.41
 Sector-18
 Rohini, Delhi. Respondents

(By Advocate: Shri S.M.Arif for R-1 (SCC), Shri Amit Anand for R-2 and 3 and Shri M.R.Junaidi for R6 and 8 (Private respondents))

O R D E R

By V. Ajay Kumar, Member (J):

The applicants, 6 in number, filed the OA, seeking the following relief(s):

"a) Allow this application.

b) Quash the impugned result and selection to the posts of Assistant Archivist (General) done by respondent NO.1 pursuant to the advertisement advertised vide Cat.No.NR/B-25 OF and advertisement No.SSC/HQ/1/2009 appearing in Employment News and consequently direct the respondents No.1 & 2 to undertake the fresh selection process or in the alternative direct them to cancel the candidature of respondents No.4-8 and thereafter declare other persons in the order of merit to the extent of five vacancies as selected and appoint them to the said posts including the applicants.

c) Grant any other relief which Your Lordship deem fit and proper in the circumstances of the case.

d) Award the cost."

2. The 1st Respondent-Staff Selection Commission issued an Advertisement in August, 2009, calling for applications for selection to 21 posts (UR-9, SC-3, ST-2 and OBC-7) of Assistant Archivist (General) in the Office of Director General, Archeological Survey of India, along with various other posts.

3. It is the case of the applicants that all of them are working as Archival Assistants, on contract basis with the 2nd Respondent-National Archives of India, and are fully qualified and eligible for selection to the post of Assistant Archivist and accordingly they have applied and, having been qualified in the Written Test, were called for Interview, and accordingly, participated in the Interview.

4. The 1st Respondent-SSC initially declared the results in respect of 11 candidates on 27.05.2011 and thereafter declared the results in respect of 4 other candidates on 03.06.2011. The private respondents 4 to 8 were also declared selected vide the aforesaid results, along with others.

5. The applicants submit that though the private respondents 4 to 8 were not possessing the required essential qualifications as notified in the Advertisement and as required under the relevant Recruitment Rules, were selected by the respondents, illegally and to the detriment of the applicants. Since the applicants fared well in the Interview, if the selection of the private respondents' No.4 to 8 is declared as bad, the applicants would have fair chances of selection in the said vacancies.

6. Heard Shri M.K.Bhardwaj, the learned counsel for the applicants and Shri S.M.Arif and Shri Amit Anand, the learned counsel for the official respondents and Shri M.R.Junaidi, the learned counsel for the private respondents, and perused the pleadings on record.

7. When this matter was taken up for hearing it is informed that the private respondents 4 and 5 though joined as Assistant Archivists under the 2nd Respondent, in pursuance of their selection and appointment but they have resigned thereafter. Private respondent No.7 has not even joined in spite of his selection.

8. It is also relevant to note here that out of the 21 vacancies of Assistant Archivists (General) [UR-9, SC-3, ST-2 and OBC-7], the 2nd Respondent-SSC recommended 15 candidates only [UR-9, SC-3, ST-2 and OBC-1], leaving 6 vacancies under OBC category on the ground of non-availability of suitable candidates [vide Annexure R41-Letter dated 13.07.2011]. Thereafter, a fresh Notification was issued in July, 2015 and in the consequential Interviews held in March, 2016, the applicants 2, 3, 4 and 6 have participated. However, it is not coming forth whether any of the applicants were appointed as Assistant Archivists, after the OA is filed.

9. The main grievance of the applicants is that they are fully qualified as per the Advertisement but instead of selecting them as Assistant Archivists (General), the respondents illegally called the private respondents for Interview, though they were not possessing the required qualifications as on the relevant date, and appointed them illegally.

10. The respondents while not denying the fact of non-possessing of the qualifications, as per the Advertisement by the private respondents, however, submit that on receipt of representations from the private respondents and others, in exercise of the powers conferred on the official respondents under the Advertisement itself, certain relaxations in qualifications were granted to the private respondents and accordingly they were called for interview and since they secured more marks than the applicants, the private respondents

were appointed as Assistant Archivists (General). Though even after appointment of the private respondents and others, six posts of Assistant Archivists (General) under the OBC category are available, and since the applicants 5 and 6, who belong to OBC category or any other candidate was not able to secure the required cut off marks in the interview, the said vacancies were filled in the next Notification issued in July, 2015.

11. The respondents further submit that the applicants having accepted the terms and conditions of the Advertisement, including the power of relaxation of qualifications and having participated and failed to secure the minimum cut off marks, in the selection process, are estopped from questioning the selection of the private respondents or any of the terms and conditions of the Advertisement.

12. The relevant Paragraphs of the subject Advertisement, read as under:

"Cat.No.NR-(B)-25: ASSISTANT ARCHIVIST (General) for the Office of Director General, Archeological Survey of India, Janpath, New Delhi.

Pay Scale: PB-2 Rs.93---34800 with G.P. 4200/- (revised) (General Central Service Group 'B' Non Gazetted, Non Ministerial).

Vacancy: 21 (UR-09, SC-03, ST-02 & OBC-07) (The post is identified suitable for OH candidates) (OA, OL, PD and D).

Age: Not exceeding 30 years.

EQ: (i) Master's Degree in History with an optional paper in Indian History of post-1750 period of a recognized University or equivalent.

(ii) Diploma in Archival Studies, **OR**

Two years' experience of Research in Modern Indian History in the period from 1750 onwards/teaching of Modern Indian History in a recognized educational institution/work in a Government Records Office.

(iii) English as one of the subjects of study at degree level of a recognized University or equivalent.

D.Q.: Experience of Research in Modern India History/teaching of Modern Indian History in a recognized educational institution (For diploma holders in Archival studies).

Note 1: Qualifications are relaxable at the discretion of the Staff Selection Commission/competent authority in case of candidates otherwise well qualified.

Note 2: The qualifications regarding experience is relaxable at the discretion of SSC in the case of candidates belonging to Scheduled Castes or Scheduled Tribes, if at any stage of selection the SSC is of the opinion that sufficient number of candidates from these communities possessing the requisite experience are not likely to be available to fill up vacancies reserved for them.

LP: New Delhi/Bhopal/Jaipur/Pondicherry/Bhubaneswar with the liability to serve in any part of India. Anywhere in India.

J.R.: 1. To perform duties like appraisal of Public records, vetting of retention schedules and other ancillary activities pertaining to Records Management, accessioning and arrangements of records, organizing the exhibitions, compiling the guide and national Register of Private records.

2. Compiling different types of finding aids for records, private papers, maps, plan, charts and automated finding aids.

3. Selecting the documents for repair, preservation and microfilming purposes.

4. Attending to correspondence work and preparation of various reports and returns.

5. Helping the Archivist (General) in organizing workshops, seminars, exhibitions and open house etc. To attend research room/exhibition duties.

6. To attend search cases on behalf of the outside and Government agencies individually to cull out information to supply to outside agencies and scholars desired by them from records.

7. To attend any other work assigned by Director General to Archives and other superior officers from time to time."

13. A perusal of the counter filed on behalf of the respondents clearly indicate that the private respondents were not possessing the requisite qualifications as on the relevant date, but the official respondents, in exercise of their power reserved under the terms of the Advertisement, relaxed the qualifications for the private respondents

and called them for interview along with the applicants and others. Since the private respondents secured more marks in the interview and since the applicants failed to secure the required marks, the official respondents appointed the private respondents as Assistant Archivists (General).

14. Though the applicants alleged that the official respondents with mala fide intention awarded more marks to the private respondents and less marks to the applicants, but not able to show any valid ground in support of the said allegation. Hence, the contention in this regard is rejected.

15. Further, though the respondents categorically stated that they have called the private respondents for interview though they are not possessing the qualifications as on the relevant date, by exercising the power conferred on them under the Notification, the applicants neither questioned the relevant terms of the advertisement which conferred such relaxation power on the official respondents nor shown that the said power was exercised arbitrarily.

16. In the circumstances and for the aforesaid reasons, the OA is dismissed. No order as to costs.

(P. K. Basu)
Member (A)

(V. Ajay Kumar)
Member (J)