

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

O.A. No. 4006/2014

**Reserved on : 10.12.2015
Pronounced on : 22.12.2015**

**HON'BLE MR. SHEKHAR AGARWAL, MEMBER (A)
HON'BLE DR. BRAHM AVTAR AGRAWAL, MEMBER (J)**

Aditya Trehan (aged about 28 years)
S/o Sh. Ashok Kumar Trehan
R/o H. No. 147-C,
LIG DDA Flats,
Motia Khan, Paharganj,
New Delhi-110 055.

...Applicant

(In person)

Versus

1. Union of India,
Through the Secretary,
Union Public Service Commission,
Dholpur House,
Shahjahan Road,
New Delhi-110 011.
2. The Secretary,
Ministry of Labour and Employment,
Shram Shakti Bhavan,
Rafi Marg,
New Delhi-110 001.
3. The Chief Labour Commissioner(C)
Ministry of Labour and Employment,
5th Floor, Shram Shakti Bhavan,
Rafi Marg,
New Delhi-110 001.

....Respondents

(By Advocate : Mr. Ravinder Aggarwal & Mr. Amit Yadav for R-1)

O R D E R**Dr. Brahm Avtar Agrawal, Member (J)**

The respondent no.1, viz., the Union Public Service Commission (UPSC) advertised in the Employment News of 8-14 June, 2013 (Annexure A-1), 30 posts of Labour Enforcement Officer (Central) in Office of the Chief Labour Commissioner (Central), Ministry of Labour. The applicant herein submitted his online application for the said post, but was not called for the interviews held in November, 2014. Hence, this O.A.

2. By our interim order of 14.11.2014, the UPSC was directed to allow the applicant to provisionally appear in the interviews and to keep his result in a sealed cover.

3. The case was taken up for final hearing and we have heard the applicant as well as the learned counsel for the respondent no.1, perused the pleadings and the rulings cited at the Bar, and given our thoughtful consideration to the matter.

4. The qualifications prescribed for the aforesaid post read as under :-

"QUALIFICATIONS : ESSENTIAL : EDUCATIONAL :
i) Degree in Commerce or Degree with Economics/Sociology/Social Work as one of the subjects from a recognised University or equivalent. ii) Post-Graduate Degree/Diploma in Law, Labour Relations, Labour Welfare, Labour Laws, Sociology, Commerce, Social Work/Welfare, Business Administration, Personnel

Management or any other allied subject relating to labour from a recognised University/Institution or equivalent.

DESIRABLE: Experience in Labour Laws, Labour Welfare, Labour Relations or Personnel Management in an industrial Organisation or a Government establishment."

5. It is contended by the applicant that the action of the respondent no. 1 in not calling him for interview is illegal in that in his application form he did not mention his experience in labour laws, etc., because the UPSC had not indicated in the advertisement that only candidates possessing at least one month's experience would be called for interview. The same, therefore, showed experience for zero period.

6. Per contra, the learned counsel for the UPSC has contended that it was a fault on the part of the applicant not to have mentioned about his experience in his application form, that where number of eligible applicants is substantially more than the number of posts, the UPSC restricts the number of candidates to be called for interview on the basis of a consciously-devised objective shortlisting criteria or by holding a recruitment test, and that in the instant case 3230 applications were received and the criteria adopted for shortlisting candidates was : "Educational Qualification (i) + Educational Qualification (ii) + Desirable Qualification (at least 01 month)" and for 30 posts 157 candidates were shortlisted to be called for the interviews. Our

attention has also been drawn to the following instructions given in the advertisement :

"3. MINIMUM ESSENTIAL QUALIFICATIONS : All applicants must fulfil the essential requirements of the post and other conditions stipulated in the advertisement. They are advised to satisfy themselves before applying that they possess at least the essential qualifications laid down for various posts. No enquiry asking for advice as to eligibility will be entertained.

Note-I : The prescribed essential qualifications are the minimum and the mere possession of the same does not entitle candidates to be called for interview.

Note-II : IN THE EVENT OF NUMBER OF APPLICATIONS BEING LARGE, COMMISSION WILL ADOPT SHORT LISTING CRITERIA TO RESTRICT THE NUMBER OF CANDIDATES TO BE CALLED FOR INTERVIEW TO A REASONABLE NUMBER BY ANY OR MORE OF THE FOLLOWING METHODS:

- (a) On the basis of higher educational qualifications than the minimum prescribed in the advertisement.
- (b) On the basis of higher experience in the relevant field than the minimum prescribed in the advertisement.
- (c) By counting experience before or after the acquisition of essential qualifications
- (d) By holding a Recruitment Test.

THE CANDIDATE SHOULD, THEREFORE, MENTION ALL HIS/HER QUALIFICATIONS AND EXPERIENCE IN THE RELEVANT FIELD OVER AND ABOVE THE MINIMUM QUALIFICATIONS."

"6. HOW TO APPLY :

a) **Candidates must apply online through the website <http://www.upsconline.nic.in>. Applications received through any other mode would not be accepted and summarily rejected.**

b) If the applicant is claiming any experience, then he/she has to personally upload his/her experience certificate in a single pdf file in such a way that the size file does not exceed 2 MB and is legible when a printout taken. For that the applicant may scan the experience certificate in 200 dpi grey scale."

"WARNING":

CANDIDATES WILL BE SHORT-LISTED FOR INTERVIEW ON THE BASIS OF THE INFORMATION PROVIDED BY THEM IN THEIR ONLINE APPLICATIONS, THEY MUST ENSURE THAT SUCH INFORMATION IS TRUE."

"7. DOCUMENTS/CERTIFICATES TO BE PRODUCED AT THE TIME OF INTERVIEW.

"(d) Certificate(s) in the prescribed proforma from the Head(s) of Organisation(s)/Department(s) for the entire experience claimed, clearly mentioning the duration of employment (date, month & year) indicating the basic pay and consolidated pay. The certificate(s) should also mention the nature of duties performed/experience obtained in the post(s) with duration(s). Experience Certificate should be issued in prescribed format relevant to the post. Experience certificate not in prescribed proforma but containing all the details as mentioned above would be considered on merits by the Commission".

7. In **M. P. Public Service Commission Vs. Navnit Kumar**

Potdar [(1994) 6 SCC 293], the Hon'ble Supreme Court held as

under :-

" Where the selection is to be made purely on the basis of interview, if the applications for such posts are enormous in number with reference to the number of posts available to be filled up, then the Commission or the Selection Board has no option but to short-list such applicants on some rational and reasonable basis. Where selections are to be made only on the basis of interview, then such interviews/viva voce tests must be carried out in a thorough and scientific manner in order to arrive at a fair and satisfactory evaluation of the personality of the candidate. The sole purpose of holding interview is to search and select the best among the applicants. It would be impossible to carry out a satisfactory viva voce test if large number of candidates are interviewed each day till all the applicants who had been found to be eligible on basis of the criteria and qualifications prescribed are interviewed. If large number of applicants are called for interview in respect of four posts, the interview is then bound to be casual and superficial because of the time constraint. The members of the Commission shall not be in a position to assess properly the candidates who appear before them for interview. It is necessary to fix the limit of the applicants who should be called for interview where there is no written test, on

some rational and objective basis so that personality and merit of the persons who are called for interview are properly assessed and evaluated. This decision regarding short-listing the number of candidates who have applied for the post must be based not on any extraneous consideration, but only to aid and help the process of selection of the best candidates among the applicants for the post in question. This process of short-listing shall not amount to altering or substituting the eligibility criteria given in statutory rules or prospectus. In substance and reality, this process of short-listing is part of the process of selection. Once the applications are received and the Selection Board or the Commission applies its mind to evolve any rational and reasonable basis, on which the list of applicants should be short-listed, the process of selection commences. The Selection Board or the Commission has to decide as to what procedure is to be followed for selecting the best candidates from amongst the applicants. In most of the services, screening tests or written tests have been introduced to limit the number of candidates who have to be called for interview. Such screening tests or written tests have been provided in the concerned statutes or prospectus which govern the selection of the candidates. But where the selection is to be made only on basis of interview, the Commission or the Selection Board can adopt any rational procedure to fix the number of candidates who should be called for interview."

8. In the light of the above, we do not see any legal infirmity in the action of the respondent no.1 in not calling the applicant for interview. The O.A does not deserve to succeed.

9. Therefore, the O.A is dismissed. No order as to costs. As legal right of the applicant to be called for interview is not sustained, the result of the provisional interview will have no bearing on the overall result.

(Dr. B. A. Agrawal)
Member (J)

(Shekhar Agrawal)
Member (A)

