

Central Administrative Tribunal
Principal Bench: New Delhi

OA No.2435/2018

Reserved on: 01.02.2019
Pronounced on: 14.02.2019

Hon'ble Mr. V. Ajay Kumar, Member (J)
Hon'ble Ms. Aradhana Johri, Member (A)

Dinesh Chandra Mishra, Age 53

S/o late Sri G P Mishra,
R/o D-24, Harbhajan Enclave,
Todapur, PO: IARI s.o.
New Delhi-12.

Working as T-4 in National Bureau
of Plant Genetic Resources,
Pusa Campus, New Delhi – 12.

...Applicant

(Applicant in person)

Versus

1. Indian Council of Agriculture Research
Through Secretary, DARE,
D.G. ICAR (Min. of Agri.)
Krishi Bhawan, New Delhi.
2. Director,
Indian Agriculture Research Institute,
(Under ICAR), Pusa Campus,
New Delhi – 12.
3. Dean and Joint Director (Edu.),
Indian Agriculture Research Institute,
Pusa Campus,
New Delhi – 12. ...Respondents

(By Advocate: Mr. Rishi Kant Singh)

O R D E R

By Hon'ble Ms. Aradhana Johri, Member (A):

The applicant Sh. Dinesh Chandra Mishra, working as
T-4 in the office of National Bureau of Plant Genetic

Resources, Pusa, New Delhi, applied for Ph.D in the discipline of 'Plant Genetic Resources' under Departmental (Technical) quota for the academic session 2018-19. The process of selection of candidates is as under:-

"Academic Attainments (Record):

Weightage for academic attainments (High School to terminal degree) would be 10%

Entrance Examination:

The weightage for entrance examination is 80%. The candidates will have to appear for Entrance Examination consisting of one paper for three parts: Part-I (General Agriculture) and Part-II and III (Subject paper). The minimum qualifying marks for appearing in the interview is 50% for General/OBC, 45% for SC/ST/PC/CWSF candidates. Total marks (percentage) would be considered for the preparation of merit. The highest mark scored by the candidates within each discipline will be considered as maximum mark (=100%) for calculating the % marks within that discipline.

Interview:

The weightage for interview is 10%. Candidates qualifying in the Entrance Examination will be called for interview in the ratio of maximum 1:4 (No. of seats: No. of students called for interview). The interview would be held on July 2, 2018 in the respective Discipline and the candidates may download their interview letter from June 25 to July 02, 2018.

Merit after the interview and Institute choice as exercised by the candidate in the Application Form shall be the criterion for selection in the respective Institute subject to fulfillment of all the other requirements for admission."

2. The applicant appeared in the written examination but failed to score the qualifying marks of 50% for General/OBC candidates. Hence, he was not called for interview and not selected.

3. It is the contention of the applicant that he was the only candidate for the seat under Departmental (Technical) quota in the discipline of 'Plant Genetic Resources'. He has also stated that scoring of a departmental candidate should not be compared with that of open candidates when it comes to qualifying marks. He has gone on to say that seats will remain vacant, if he is not selected. He has claimed the following relief:-

"8.1 Direction be passed to admit me instead of keeping six seats vacant, may even prefer to pass direction at admission stage.

9. *Interim order, if any prayed for:*

9.1 Direction be passed to admit me provisionally so that I may not stay behind in study which is about to start w.e.f. July 30, 2018, considering the ground that I was only candidate against one seat reserved for departmental technical thus it was unjustified to test me in examination and then declaring me not qualified by comparing score with open candidate; instead of keeping the 6 seats vacant."

4. The respondents have filed counter reply and denied the claims of the applicant. They have also filed additional affidavit and submitted that the seats earmarked under each scheme as per the Memorandum dated 28.02.2018 are as under:-

"1. Open Scheme - 185 seats

(172 for IARI, New Delhi 13 for IARI PG outreach programme at ICAR-CIAE, Bhopal).

2. Faculty Upgradation Scheme - 10 seats
3. ICAR in-service Nominee Scheme - 10 seats

4.	<i>Departmental (Scientific)</i>	-	<i>10 seats</i>
5.	<i>Departmental (Technical)</i>	-	<i>26 seats</i>
6.	<i>Children/ Widow of Security Forces.</i> "	-	<i>5 seats</i>

5. The respondents have submitted that maximum number of seats available, under Departmental (Technical) quota at IARI, are 26. These seats are filled only with candidates who score the minimum qualifying marks irrespective of the schemes. The candidates have to score minimum qualifying marks in the written entrance examination i.e. 50% for General/OBC candidates. It is contended that in case entrance exam qualified candidates are not available in any of the schemes, the seats remain vacant. However, to maintain the academic standards, candidates who fail to score minimum percentage of marks in the entrance exam are not admitted. The total number of candidates under Departmental (Technical) quota, who appeared in the written examination, were 10 and since none of them qualified, no admission was made under this scheme. Only one Departmental (Technical) candidate appeared for the Ph.D entrance exam in the discipline of 'Plant Genetic Resources' and that was the applicant, who also did not qualify in the entrance exam, hence no admission under Departmental (Technical) Scheme was made. In 'Plant Genetic Resources' (Open Scheme)

discipline, 15 candidates applied for exam, 13 appeared, 8, who scored minimum qualifying marks in the written exam were called for interview, and finally 5 were selected for admission (3 general, 1 OBC and 1 ST).

6. The respondents have also contended that the academic session of PG Scheme of IARI had already commenced and the session is quite at an advanced stage as per the academic terms mentioned under clause 4 of the Information Bulletin itself, therefore, admitting any candidate now, who has not even qualified the requirement as set out and passed the exam, will be against the interest of other eligible candidates.

7. Heard the applicant, who is present in person, and Sh. Rishi Kant Singh, learned counsel for the respondents.

8. It is an admitted fact that the applicant participated in the written examination, which is an essential part of the selection process for Ph.D. Having participated in the examination and being unsuccessful, he cannot make any claim, at this stage, about scoring methodology etc.

9. The Hon'ble Supreme Court in ***Manish Kumar Shahi vs. State of Bihar & Others*** [2019 (12) SCC 576], has held as under:-

*“We also agree with the High Court that after having taken part in the process of selection knowing fully well that more than 19% marks have been earmarked for viva voce test, the petitioner is not entitled to challenge the criteria or process of selection. Surely, if the petitioner’s name had appeared in the merit list, he would not have even dreamed of challenging the selection. The petitioner invoked jurisdiction of the High Court under Article 226 of the Constitution of India only after he found that his name does not figure in the merit list prepared by the Commission. This conduct of the petitioner clearly disentitles him from questioning the selection and the High Court did not commit any error by refusing to entertain the writ petition. Reference in this connection may be made to the judgments in *Madan Lal v. State of J&K* [1995 (3) SCC 486], *Marripati Nagaraja v. Govt. of A.P* [2007 (11) SCC 522], *Dhananjay Malik v. State of Uttranchal* [2008 (4) SCC 171], *Amlan Jyoti Borooh v. State of Assam* [2009 (3) SCC 227] and *K.A. Nagamani v. Indian Airlines* [2009 (5) SCC 515].”*

10. The Hon’ble Apex Court in ***D. Sarojakumari vs. R. Helen Thilakom & Ors.*** [2017 (9) SCC 478], apart from

making reference to the rulings of *G.Sarana v. University of Lucknow* [1976 (3) SCC 585] and *Madan Lal vs. State of J&K* [1995 (3) SCC 486], has also taken into consideration its earlier decision in *Manish Kumar Shahi* (supra), in all of which a similar view has been held that having participated in a selection process and not scoring the minimum qualifying marks, the petitioner is dis-entitled from questioning the selection process. The Hon’ble Apex Court has also referred the case of ***Ramesh Chandra Shah vs. Anil Joshi*** [2013 (11) SCC 309], wherein the following has been held:-

“24. In view of the propositions laid down in the above noted judgments, it must be held that by having taken

part in the process of selection with full knowledge that the recruitment was being made under the General Rules, the respondents had waived their right to question the advertisement or the methodology adopted by the Board for making selection and the learned Single Judge and the Division Bench of the High Court committed grave error by entertaining the grievance made by the respondents. scale of pay of Rs.380-560 and 330-560.

11. Furthermore, it is seen that the matter in question pertains to a Ph.D programme in a specialized discipline where only the candidates who have attained certain calibre are to be admitted in order to maintain academic standards. The process and criteria are clearly laid down in the Memorandum Bulletin dated 28.02.2018 itself, which invited applications.

12. In view of the above submissions and legal position, we find no merit in the OA and the same stands dismissed accordingly. There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(V.Ajay Kumar)
Member (J)