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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

11 OA No.1379/2003

New Delhi this the 11th day of August, 2003.

HON'BLE MRS. LAKSHMI SWAMINATHAN, VICE-CHAIRMAN (J)  
HON'BLE MR. V.K. MAJOTRA, MEMBER (ADMNV)

Ms. Sunita Anand,  
Superintendent (Legal),  
Legislative Department,  
Ministry of Law and Justice,  
Shastri Bhawan,  
New Delhi.

-Applicant

(By Advocate Shri V.S.R. Krishna)

-Versus-

Union of India through  
the Secretary,  
Union Public Service Commission,  
Dholpur House,  
New Delhi.

-Respondents

(By Advocate Shri D.K. Singh)

ORDER (Oral) 11

By Mr. V.K. Majotra, Member (A):

This case relates to recruitment of four Assistant Legislative Counsel (Grade IV of Indian Legal Service) in the Legislative Department, Ministry of Law, Justice and Company Affairs. These posts were advertised vide Employment News of 27.7.2002-2.8.2002. Apart from essential qualification of holding a superior post in the Legal Department of State for a period of seven years, it was stated in the advertisement that "preference shall be given to a person with experience in legislative drafting". With a view to call reasonable number of candidates for interview the Union Public Service Commission (Commission) decided to call only candidates having experience of more than 14 years instead of seven years. However, candidates with 10 years' experience in Legal Affairs, out of which at least two years must be in legislative drafting, were called for interview.

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2. It has been contended on behalf of applicant that applicant has the necessary experience besides other qualifications. On 27.5.2003, by an interim order, it was directed that applicant be interviewed provisionally, subject to final outcome of the OA, but her result should not be declared.

3. Learned counsel of applicant stated that applicant has requisite experience. He relied on Annexure-I, attached with the rejoinder issued on 14-8-2002 by Ministry of Law and Justice, Legislative Department. It reads as follows:

"No.A-15011/2/98-Adm.I  
 (LD) Government of India  
 Ministry of Law and Justice  
 Legislative Department

New Delhi Dated the 14th August, 2002.

TO WHOMSOEVER IT MAY CONCERN

This is to certify that Smt. Sunita Anand is working as Superintendent (Legal) in the Legislative Department, Ministry of Law and Justice w.e.f. 14th September, 2001. The basic pay is Rs.8000/- in the pay scale of Rs.7500-250-12000 and her consolidated pay is Rs.15,020/-. Prior to her appointment as Superintendent (Legal) she worked as Assistant (Legal) in this Department w.e.f. 8th January, 1996 to 13th September, 2001. Before joining as Assistant (Legal) in this Department, she has worked as Junior Law Officer in the Indian Council of Agricultural Research, Krishi Bhawan, New Delhi in the pay scale of Rs.1640-2900 w.e.f. 29th May, 1992 to 8th January 1996.

2. The duties of Superintendent (Legal) involves:-

(i) providing general and secretarial assistance to Legislative Counsels in the Legislative drafting, legal research work and submission of relevant precedents of drafting;

(ii) to supervise the overall working of the Section concerned in the Legislative Department.

3. In addition to the duties mentioned in para 2 above, Smt. Anand has been scrutinizing and vetting the proposals relating to subordinate legislation, i.e., rules, regulations, notifications etc., attending the Houses of Parliament so as to render assistance to concerned administrative Ministries during introduction and consideration of Bills and rendering assistance in proof reading of Bills and Ordinances etc. While she worked as Assistant (Legal), Smt. Anand has been scrutinizing State Bills reserved for the consideration of the President and had been preparing para-wise comments in Court cases.

sd/-  
(M. DAS)

Deputy Secretary to Government of India

Smt. Sunita Anand  
Superintendent (Legal)  
Legislative Department."

4. While the learned counsel of applicant contended that applicant has adequate experience of legislative drafting, scrutiny of statutory rules and orders etc., learned counsel of respondents stated that even vide Annexure-I she had experience of the post of Superintendent (Legal) in the Legislative Department only for a period of about one year, i.e., from 14.9.2001 to 14.8.2002 which falls short of the requisite two years' experience.

5. While we do not find fault with the Commission's procedure to short list the candidates on some rational and reasonable basis when the number of applications is large, it has to be seen whether respondents, including the Commission, have rightly excluded applicant on the basis of criterion for short listing. As per Annexure-II of the Rejoinder which has been issued by Legislative Department applicant had worked as Superintendent (Legal) from 14.9.2001 onwards. Prior to that she had worked as Assistant (Legal) in the Legislative Department from 8.1.96 to 13.9.2001. Even before that she

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had been Junior Law Officer in the Indian Council of Agricultural Research (ICAR) for a period of four years. As Superintendent (Legal) she has been providing general and secretarial assistance to Legislative Counsel in the legislative drafting, legal research work and supervision of overall working of the Section concerned in the Legislative Department. Apart from this, she has been scrutinising and vetting the proposals relating to Subordinate Legislation, i.e., rules, regulations, notifications etc. Even though applicant has worked as Superintendent (Legal) only for a period of about one year prior to the cut off date, her earlier experience also related to scrutiny of State Bills. Although there is no dispute about applicant's basic qualifications, in our considered view, respondents have gone wrong in evaluating her experience. As per Note-I to the advertisement other things being equal among candidates preference had to be given to a person with experience in legislative drafting. Having Annexure-I in view, which has been issued by the Legislative Department apart from possessing essential qualifications, applicant does have requisite experience in Legislative Department and for purposes of duties expected of an Assistant Legislative Counsel (Grade IV).

6. In the totality of facts and circumstances, as discussed above, OA is allowed. Applicant is held to be eligible for the post of Assistant Legal Counsel (Grade-IV) even as per criterion set up by the Commission for short listing. As such, respondents are directed to declare the result of applicant in respect of interview and in case she



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is successful, she should be appointed to the post of Assistant Legal Counsel (Grade-IV of Indian Legal Service) with all consequential benefits. No costs.

V.K. Majotra

(V.K. Majotra)  
Member (A)

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)  
Vice-Chairman (J)

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