

(2019) 12 UK CK 0100
In the Uttarakhand High Court
Case No : Writ Petition (S/B) No. 158 Of 2018

Dr. Ramesh Chinnasamy

APPELLANT

Vs

Director, Wildlife Institute Of India

RESPONDENT

Date of Decision : 14-12-2019

Acts Referred:

Institute's Recruitment And Assessment Promotion Rules For Group-A Scientific Posts, 2010 — Rule 6.5.4, 6.5.5

Citation : (2019) 12 UK CK 0100

Hon'ble Judges : Ramesh Ranganathan, CJ;Alok Kumar Verma, J

Bench : Division Bench

Advocate : Dr. Kartikey Hari Gupta, Rakesh Thapliyal, Xitiz Kaushik

Final Decision : Allowed

Judgement

Ramesh Ranganathan, CJ

1. This Writ Petition has been filed seeking a writ of certiorari to quash the O.M. dated 16.04.2018; and a writ of mandamus commanding the

respondent to grant appointment to the petitioner in the post of Scientist â?? Dâ??, reserved for the OBC category, as per the advertisement

No.WII/ADM/2015-16/01 dated 10.08.2015 with effect from the date of appointment of other candidates, appointed pursuant to the said advertisement.

2. Facts, to the limited extent necessary, are that, by the aforesaid advertisement, the respondent invited applications to fill up three posts of Group â??Aâ?? Scientist, in Scientist â??Dâ?? category, by way of direct recruitment. While two of these posts were unreserved, one post was reserved

in favour of the OBC category and, that too, only to the non-creamy layer. The prescribed qualifications, disciplines and experience to be considered

for appointment to the post of Scientist D was a Master's degree in Wildlife Science/Life Science/Computer Science/Veterinary Sciences

with seven years experience in wildlife research, conservation, training and management; or Ph.D in any of the above fields with four years

experience in Wildlife research, conservation, training and management.

3. It is not in dispute that the petitioner fulfils the qualifications stipulated in the said advertisement. A written test was held on 24.09.2015 wherein the

petitioner stood 1st among the OBC category. In the final selection, Mr. (Dr.) N. Marimuthu stood 1st with a total of 72 marks, and the petitioner

stood 2nd securing 68 marks.

4. The minutes, of the meeting held on 25th-26th September, 2015, records that the Institute's Committee for Selection and Assessment Promotion

(ICSAP) met on 25-26 September, 2015 at the Wildlife Institute of India, Dehradun; the Member-Secretary ICSAP had informed that the Institute

had advertised for filling up of three posts of Scientist-D in Pay-Band 3 (15600-39100) with Grade Pay of Rs.7600/- on direct recruitment basis; one

of three positions was reserved for the Other Backward Classes (OBC), while the other two were un-reserved positions; the members were informed

of the process of recruitment followed as per the provisions of the Institute's Recruitment and Assessment Promotion Rules for Group-A

Scientific Posts, 2010; and, after deliberations on the recruitment process and arriving at a consensus on the criteria of marking in the interview, all

short-listed candidates appeared before the ICSAP which assessed the candidates on the basis of (i) academic background; (ii) domain knowledge;

(iii) research abilities; and, (iv) teaching/training abilities and they recommended that with respect to one position of Scientist-D reserved in favour of

the OBC category, that Dr. N. Marimuthu be recommended for appointment, while Dr. Ramesh Chinnasamy (the petitioner herein) be wait-listed.

5. The petitioner's name finds specific mention in the minutes of meeting dated 25th-26th September, 2015, and the recommendation is that he be

a wait-listed candidate. Pursuant thereto, by proceedings dated 21.12.2017, Dr. N. Marimuthu was offered appointment to the post of Scientist-D in

the Wildlife Institute of India at Dehradun, on the basis of the O.M. dated 19.12.2017 issued by the Ministry of Environment, Forest and Climate

Change, Government of India. The said proceedings dated 21.12.2017 refers to

the terms and conditions on which Dr. N. Marimuthu was being offered appointment.

6. On the very next day ie 22.12.2017, Dr. N. Marimuthu sent an e-mail to the respondent-Institute thanking them for offering him the position of Scientist-D at the Wildlife Institute of India, Dehradun. He informed that, since he had joined as Scientist-D at the Zoological Survey of India, Kolkata, he could not take up the said assignment.

7. In this context, it is useful to note that the Recruitment and Assessment Promotion Rules for Group-A Scientific Posts, 2010, published on March, 2010, provides for the preparation of a panel to wait-list candidates which is to remain valid for a period of one year. Rule 6.5.4 of the 2010 Rules

stipulates that a Committee shall recommend a panel of candidates in the order of merit for each post or group of posts as advertised; and all relevant

papers, in respect of the selection, shall be forwarded by the Director, Wildlife Institute of India to the Chairman of the Governing Body. Rule 6.5.5

stipulates that the panel, thus prepared by the Committee, shall be valid for one year from the date of approval by the competent authority, and shall be

operated for issuing the offer of appointment to the selected candidates only to the extent of the number of vacancies advertised; and if any of the

candidates, who had been issued the offer of appointment upto the extent of the notified vacancies, do not accept the offer or do not join by the

stipulated date, the next candidate on the panel can be offered the post.

8. In effect, Clause 6.5.5 stipulates that the panel, prepared by the Committee, shall be valid for a period of one year from the date of approval by the

competent authority; and this panel is to be operated for issuing the offer of appointment to the selected candidates.

9. In the counter-affidavit, filed on behalf of the respondent-Institute, it is stated that the petitioner is an employee of the Wildlife Institute of India; the

Ministry of Environment, Forest and Climate Change, Government of India, by their O.M. dated 19.12.2017, had approved the name of only three

Scientists for the post of Scientist-D advertised during the year 2015; offers of appointment were issued to all three Scientists but the third candidate

Dr. N. Marimuthu declined the offer as he was already working as a Scientist-D in the Zoological Survey of India, Kolkata; since the Ministry of

Environment, Forest and Climate Change had approved the appointment of these

three Scientists, the question of issuing appointment to any other candidate did not arise; further Dr. N. Marimuthu, who was selected and offered appointment, was having experience and expertise in "coastal and marine bio-diversity conservation"; the petitioner does not hold the requisite experience in the field of "coastal and marine bio-diversity conservation"; the petitioner is a permanent employee of the respondent-Institute and is working at the level of Scientist-C; and his further promotion, to the level of Scientist-D and above, is governed under the Flexible Complementing Scheme (FCS) of the Government of India.

10. With respect to the first objection of the respondents, to the grant of relief sought for in this Writ Petition, the subject matter of the O.M. dated

19.12.2017, issued by the Ministry of Environment, Forest and Climate Change, Government of India, itself relates to the approval of the

recommendations of the Wildlife Institute of India's Committee for Selection cum Assessment Promotion (ICSAP) of Group-A Scientific posts

made in its meeting held on 25th-26th September, 2015. Further in Paragraph 1, of the said O.M. dated 19.12.2017, it is stated by the Joint Director

(Wildlife) that he was directed to convey the approval of the Secretary, Ministry of Environment, Forest and Climate Change, Government of India

and Chairman, Wildlife Institute of India's Governing Body to the recommendations of the Wildlife Institute of India's Committee for Selection

cum Assessment Promotion (ICSAP) of Group-A Scientific posts made in its meeting held on 25th-26th September, 2015.

11. As noted hereinabove, in the minutes of the meeting held on 25th-26 th September, 2015 the Committee recommended the name of two persons,

for one post under the OBC category for Scientist-D, ie Dr. N. Marimuthu and the petitioner. While Dr. N. Marimuthu was recommended for

appointment, the petitioner was wait-listed. Similarly, for the post of Scientist-D (two posts unreserved), the names of four candidates were

recommended. While Dr. Malvika Onial and Dr. Sutirtha Dutta were both recommended for appointment, Mr. Pranav Chanchani and Mr. Navendu

Vinayak Page were both wait-listed. It is this minutes which were approved vide O.M. dated 19.12.2017. The contention of the respondent-Institute

that only the names of the three selected candidates were approved, and not the wait-listed candidates does not therefore merit acceptance.

12. The other contention of the respondent-Institute is that, unlike Dr. N. Marimuthu, who possessed additional experience and expertise in "coastal and marine bio-diversity conservation", the petitioner did not.

13. As noted hereinabove, the advertisement dated 10.08.2015 does not prescribe the experience and expertise, in "coastal and marine bio-diversity conservation", as a qualification to be considered for appointment as Scientist-D. No other condition, apart from those stipulated in the

advertisement, could have been imposed to deny the petitioner appointment to the post of Scientist-D. In this context, it is useful to note that besides

Dr. N. Marimuthu, two others were also selected and appointed to the post of Scientist-D, albeit in the general category. It is not even stated, in the

counter-affidavit, that these two general category candidates, who were also selected and appointed as Scientist-D, possessed experience and

expertise in "coastal and marine bio-diversity conservation".

14. It is evident, therefore, that this plea that only candidates, with experience and expertise in "coastal and marine bio-diversity conservation",

were entitled to be appointed as Scientist-D, has been taken only to deny the petitioner his right of appointment to the post of Scientist-D.

15. Rule 6.5.5 of the 2010 Rules requires the panel to be approved by the Committee which is to be valid for a period of one year from the date of

approval by the competent authority, and since the competent authority had approved the panel by O.M. dated 19.12.2017, the validity of the panel

was to remain in force for a period of one year thereafter till 19.12.2018. The petitioner invoked the jurisdiction of this Court on 19.04.2018 during the

currency of the panel. The contention that he is working in a Scientist-C post in the very same Institute matters little, for it does not disentitle him from

applying for, and being selected to, the higher post of Scientist-D, if he possessed the prescribed qualifications, and was found suitable in the selection

process for appointment as Scientist-D in the very same Institution.

16. Viewed from any angle, we see no justification in the respondent denying the petitioner appointment to the post of Scientist-D, consequent on his

selection to the said post, and on his being wait-listed.

17. The Writ Petition is allowed and the respondent-Institute is directed to issue an order, appointing the petitioner as Scientist-D, within six weeks

from the date of production of a certified copy of this order.

18. Since the petitioner would be entitled for the salary and emoluments applicable to the post of Scientist-D, only after he joins the said post, we see no reason to accede to the request of Mr. (Dr.) Kartikey Hari Gupta, learned counsel for the petitioner, that the petitioner be granted salary from the date on which the others general category candidates were appointed as Scientist-D.

19. No costs.