

(2001) 08 SC CK 0119

In the Supreme Court Of India

Case No : C.A. No.-000378-000378 / 1994

Inder Jit Gupta and Others

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 14-08-2001

Acts Referred:

Citation : (2001) 6 AD 230 : AIR 2001 SC 3338 : (2001) AIRSCW 3183 : (2001) 90 FLR 1030 : (2001) 6 JT 510 : (2001) LabIC 2901 : (2001) 4 PLJR 143 : (2001) 5 SCALE 198 : (2001) 6 SCC 637 : (2001) SCC(L&S) 1083 : (2001) 3 SCT 1042 : (2001) 6 Supreme 227 : (2001) 3 UPL

Hon'ble Judges : S. Rajendra Babu, J;Doraiswamy Raju, J

Bench : Division Bench

Advocate : Mr. R.K. Dhawan, Mr. M.A. Chinnaswamy and Mr. M.A. Krishna Moorthy, for the Appellant; Mr. T.L. Viswanatha Iyer Mr. Y.P. Mahajan, Mr. B.V. Balram and Mr. C. Radhakrishnan, for the Respondent

Final Decision : Dismissed

Judgement

Rajendra Babu, J.—The appellants before us are serving in the Zoological Survey of India under the control of the ministry of Environment & Forests. Most of them were appointed as Assistant Zoologists by direct recruitment and some of them were promoted to the post of Assistant Zoologist under the Zoological Survey of India (Central Service Class 1 and Class II posts] Recruitment Rules, 1963, as amended from time to time. They contended that they were governed by the Recruitment rules, which prescribed only the Master's degree in Zoology as essential qualification for the post of Assistant Zoologist and experience relating to the posts above that of the Assistant Zoologist would be Scientist-B and so on.

2. Annexure-II to the Recruitment Rules provided the norms for recruitment to the scientific posts as under:

Sr. No. Name of the candidate Party affiliation No of valid votes polled

1. Rao Om Parkash, Engineer BSP 5819

2. Sh. Jagat Singh JD[U] 113
3. Sh. Narender Singh INC 31755
4. Sh. J.D. Yadav HVP 500
5. Smt. Santosh INLD 31421
6. Sh. Yogesh Kumar RJD 205
7. Sh. Laxmi Narain SP 785
8. Sh. Vinod Kumar SJP[R] 212
9. Sh. Om Parkash Yadav IND 18
10. Sh. Om Parkash IND 178
11. Sh. Naresh Yadav IND 19855
12. Comrade Balbir Singh IND 476
13. Sh. Ram Singh IND 111
14. Sh. Rama Nand Sharma IND 194
15. Smt. Santosh W/o Yudhvair IND 40
16. Sh. Satbir IND 92
17. Sh. Surender IND 18

Notes:

1. Direct recruits may be given in deserving cases so recorded by the Selection/ Departmental Recruitment Committee a higher initial start than the minimum of the scale of which they are appointed. However, such an initial start shall not exceed five advance increments over the minimum of the scale.
2. +5, +10 denote minimum number of years of experience required in addition to basic educational qualifications.
3. Specific disciplines for educational qualifications will be decided at the time of filing up of a post based on the job requirements.
4. For direct recruitment for the posts of Scientist SF and above, the basic educational qualifications and the experience shall be the same as applicable to the officers of the Department for promotion to these grades under the scheme of flexible complementing.
5. Service rendered in the field of forestry and wildlife will be treated as relevant experience for posts for which such experience is considered appropriate by the Department. In case of applicants belonging to the Indian Forest Service educational qualification prescribed for such posts may be relaxed by the Department.

6. The exact experience in a particular field of discipline shall be as indicated in the advertisement for the relevant posts.

3. The Recruitment Rules also imposed age limit, which was relaxable upto 5 years for Government servants. The contended that by amendment made to the Recruitment Rules in 1987 drastic changes were effected in regard to the qualification to the detriment of the vested rights of the appellants.

4. An advertisement was made on 4.2.1988 in the local newspaper by the Ministry of Environment & Forests to fill up the post of Scientist-SD stating that essential qualification as First Class Master's Degree in Zoology with 5 years experience in Faunistic Survey/Taxonomy or Doctorate in Zoology. Age limit mentioned therein was relaxable upto 5 years in respect of Government servants unless stated otherwise. In view of the several conditions imposed in the said notification, though under the relevant rules, they were entitled to apply for the said post they did not apply for the same. However, they made certain representations to the Government. At that stage, they approached the Tribunal on the ground that the relaxation regarding qualification and age ought to have been extended to the appellants in terms of Recruitment Rules as in force in 1963; that the qualification and age limit prescribed in the impugned rules of 1987 is arbitrary and has no reasonable nexus to the concerned post inasmuch as for higher posts such restrictions have been removed and lesser qualifications have been prescribed and that relaxing basic educational qualification and age limit subsequent to original advertisement on 4.2.88 without any re-advertisement amounts to denial of equal opportunity to all eligible candidates. The appellants sought for quashing of the relevant Recruitment Rules and the action taken pursuant to the advertisement dated 4.2.88 and further direction not to give effect to the result of the said interviews which had been held and to allow the appellants and other candidates to apply for the posts of Scientist-SD for appointment to the said posts and to incorporate such relaxed basic educational qualifications and age limit in the prescribed rules.

5. The said applications filed by the appellants were seriously contested by the respondents and it was stated that for the post of Scientist-SD educational qualification is the First Class Master's Degree in Zoology with 5 years experience in Faunistic Survey/Taxonomy or Doctorate in Zoology. In this case, as persons possessing Ph.D. in Zoology have been called for the interview, insistence upon First Class in M.Sc. was not required and such condition had not been relaxed at all. If the appellants had submitted application before the recruiting authority stating their qualifications and experience, their applications would have certainly been considered.

6. The Tribunal took the view that if for the promotional post of Scientist-Sd the recruiting authority decided that essential qualification would be M.Sc. 1st Class or Doctorate in Zoology, it would be a matter of policy and the Tribunal cannot interfere with the same. The Tribunal also noticed that protest against the advertisement made in 1988 that it should have been on the basis of the

Recruitment Rules effective prior to 1987 was not raised earlier and after the entire process of selection is completed, the point cannot now be considered or examined as the appellants had acquiesced in the action taken by the respondents. The question of relaxing their age as per the Recruitment Rules also could not be considered inasmuch as the appellants had not made applications before the authority nor sought for any relaxation. In view of this position, the Tribunal did not interfere with the selection made and dismissed the same. The Tribunal, in particular, noticed as under:

"...When the proper advertisement in terms of Recruitment Rules has been issued, interview was made and selection held. As we are of the view that the Union of India has the authority to change the Recruitment Rules and to provide a higher educational qualification than that provided in the earlier rules and that being the policy of the Government, the Court or the Tribunal should not interfere with such Recruitment Rules."

7. The learned counsel for the appellants except to reiterate the arguments advanced before the Tribunal did not advance any new argument. In the circumstances when the Tribunal has found that the qualification necessary for the post of Scientist-SD is M.Sc. 1st Class or Doctorate in Zoology and that the age relaxation in respect of the appellants could have been considered only in the event if they had made appropriate applications, we hardly find any justification to interfere with the order made by the Tribunal, particularly when the events had taken place as early as in 1988 when the recruitment were completed.

8. In that view of the matter, we decline to interfere with the order made by the Tribunal and this appeal shall stand dismissed. No costs.