

INDER JIT GUPTA AND ORS.

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v

UNION OF INDIA AND ORS.

AUGUST 14, 2001

[S. RAJENDRA BABU AND DORAISWAMY RAJU, JJ.]

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Service Law :

Zoological Survey of India (Central Service Class I and Class II Posts) Recruitment Rules, 1963—Assistant Zoologists—Recruited under Recruitment Rules, 1963 on the basis of Master's Degree in Zoology—Subsequent amendment of Recruitment Rules in the year 1987 requiring higher qualification—Advertisement inviting applications for the post of Scientists—Requisite qualification—First class Master's Degree in Zoology with 5 years experience—Appellants though entitled to apply not applying—On challenge, tribunal declining to interfere with the selection process holding that the protest against the advertisement was raised after the entire selection process was completed—Question of relaxation of age could have been considered if appropriate applications were made—On appeal held, no interference called for.

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Appellants holding Master's Degree in Zoology were appointed as Assistant Zoologists under Zoological Survey of India (Central Service Class I and Class II posts) Recruitment Rules, 1963. Subsequently, the Recruitment Rule were amended in 1987 and drastic changes were made regarding qualification for recruitment. An advertisement was issued inviting applications for the post of Scientist-SD from persons holding First Class Master's Degree in Zoology with five years experience in Faunistic Surver/ Taxonomy or Doctorate in Zoology. In respect of Government servants, the age limit was relaxed upto five years. The appellants though entitled to apply for the said post did not apply and after making representations approached the tribunal for quashing the Recruitment Rules, 1987 and the action taken pursuant to the advertisement. Tribunal declined to interfere with the selection process holding that the recruiting authority as a matter of policy decision could provide higher educational qualification; that the protest against the advertisement was raised by appellants after the entire selection process was completed and the question of relaxation of age could not be considered as

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- A** appellants had not made any application before the appropriate authority. Hence the present appeal.

Dismissing the appeal, the Court

- B** **HELD :** When the Tribunal has found that the qualification necessary for the post of Scientist-SD is M.Sc. Ist 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, there is no 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. [505-E, F]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 378 of 1994.

- D** From the Judgment and Order dated 11.2.1993 of the Central Administrative Tribunal in O.A. No. 828 of 1989.

R.K. Dhawan, M.A. Chinnaswamy and M.A. Krishna Moorthy for the Appellants.

- E** T.L. Viswanatha Iyer, Y.P. Mahajan, B.V. Balram Das and C. Radhakrishnan for the Respondents.

The Judgment of the Court was delivered by

- F** **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 I 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.

- H** Annexure-II to the Recruitment Rules provides the norms for recruitment to the scientific posts as under:

	SC	SD	SE	SF	SG	G	H
	Rs.2200	Rs.3000-	Rs.3700	Rs.4500	Rs.5100	Rs.5900	Rs.5900
	-75-	100-	-125-	-150-	-150-	-200-	-200-
	2800-	3500	4700-	5700	5700	6700	7300
	EB-100-	-125-	150-		-200		
	4000	4500	5000		-6300		
Master's degree Fresh in Science or equivalent		+5	+10				
Bachelor's degree in engineering, technology or equivalent	Fresh	+5	+10				
M.B.B.S. or equivalent	Fresh	+5	+10				
Doctorate in Science, technology or engineering.	-	Fresh	+5				

Notes :

1. Direct recruits may given in deserving cases so recorded by the Selection/ Departmental Recruitment Committee a higher initial start than the minimum of the scale to 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 filling 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 qualifications 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.

A The Recruitment Rules also imposed age limit, which was relaxable upto 5 years for Government servants. They 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.

B 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, thought 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 of 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 qualification and age limit in the prescribed rules.

E The said applications filed by the appellants were seriously contested by 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.

H 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 protests 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 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."

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 application, 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.

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.

S.V.K.

Appeal dismissed.