

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

- 1) O.A. NO.1626/1996
2) O.A. NO.1584/1999 ✓

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New Delhi this the 21st day of February, 2000.

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN

HON'BLE SMT. SHANTA SHASTRY, MEMBER (A)

1) O.A. NO.1626/1996

1. A.K.Das S/O N.N.Das,
R/O BC/5D, DDA Flats,
Munirka, New Delhi.
2. O.P.Saxena S/O S.B.Lal Saxena,
R/O Q.No.486/ Sector-9,
R.K.Puram, New Delhi.
3. J.M.Garg S/O K.N.Garg,
R/O 1115, Sector XII,
R.K.Puram, New Delhi-22.
4. Jasbir Singh S/O Kaka Singh,
R/O RZ 196 CA, Varinder Nagar,
New Delhi-58.
5. S.C.Bajaj S/O Devi Das,
R/O Flat No.19, Pocket-I,
'C' Block, Naraina,
New Delhi-28.
6. P.V.M.Rao S/O P. Narasimha Rao,
R/O 7/3, Block-I,
Minto Road Apartment,
New Delhi-2.
7. T.Madaneshwar S/O J.N.Tripathi,
R/O A-121, Pandara Road,
New Delhi-110001.
8. Dr. T.K.Chakravarthy S/O Major
Thiruvengkatachari (Retd.),
R/O B-1/24, Azad Apartment,
Shree Aurobindo Marg,
New Delhi.
9. P.R.Bulsara S/O R.K.Bulsara,
R/O WZ-605, Palam Village,
New Delhi.
10. A.K.Agarwal S/O R.D.Agarwal,
R/O Pocket LP-360,
Maurya Enclave, Pitampura,
Delhi-34.
11. H.S.Kaintura S/O Sazan Singh Kaintura,
R/O A-26, Sector 12,
NOIDA.

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12. D.N.Mathur S/O S.N.Mathur,
R/O SE-299, Duplex-C,
Shastri Nagar,
Ghaziabad-201022.
13. V.K.Tyagi S/O B.S.Tyagi,
R/O 963-Z, Timarpur,
Delhi-59.
14. P.P.Srivastava S/O G.P.Srivastava,
R/O 75-D, Pocket-E,
Dilshad Garden,
Delhi-95.
15. S.K.Gupta S/O Shishupal Gupta,
R/O 163-B, Jhilmil Colony,
Near Vivek Vihar Police Station,
Delhi-92.
16. A.K.Sinha S/O Kamta Prasad,
R/O B-39, Sector-26,
Noida-201301 (UP)

... Applicants

(By Shri S. S. Tiwari, Advocate)

-Versus-

1. Union of India through
Secretary, Department of
Chemicals & Petrochemicals,
Ministry of Chemicals & Fertilizers,
Shastri Bhawan,
New Delhi.

... Respondent

(By Shri S. Mohd. Arif, Advocate)

2) O.A. NO.1584/1999

1. S.C.Bajaj S/O Devi Das,
R/O Flat No.19, Pocket-I,
'G' Block, Naraina,
New Delhi-28.

... Applicant

(By Shri S. S. Tiwari, Advocate)

-Versus-

1. Union of India through
Secretary, Department of
Chemicals & Petrochemicals,
Shastri Bhawan,
New Delhi.
2. Secretary,
Ministry of Personnel & Training,
North Block,
New Delhi.

... Respondents

(By Shri Mohar Singh, Advocate-)

O R D E R (ORAL)

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Shri Justice Ashok Agarwal :

Applicants in O.A. No.1626/1996 were initially employed with the Directorate General of Technical Development (DGTD). They were transferred to the Department of Chemicals & Petrochemicals vide Ministry of Industry, Department of Industrial Development, DGTD order dated 31.3.1994. As per para 4 of the order, establishment matters like promotion, appointment, confirmation, deputation, recruitment etc. in respect of the technical officers who were transferred were also transferred to the Department of Chemicals & Petrochemicals. On transfer of the aforesaid posts from the DGTD to the Department of Chemicals & Petrochemicals, services of applicants were also transferred. Since applicants were denied promotions claimed by them they have preferred the aforesaid O.A. No.1626/1996

2. On 11.4.1997 the following interim order was passed :

"We have heard the learned counsel for both the parties on the MA. Pursuant to the directions of the Tribunal dated 12.3.97, the respondents have filed the affidavit giving details of chronological events of the action taken for amendment of the Recruitment Rules for the technical posts. A copy of the affidavit has also been given to the learned counsel for the applicant. This affidavit is taken on record.

2. The short point involved in the MA is the amendment of the Recruitment Rules consequent on transfer of the technical posts under the erstwhile Directorate General of Technical Development to the Ministry of Chemicals and Fertilizers, Department of

Chemicals and Petrochemicals in 1994. As per the details supplied by the learned counsel for the respondents, the matter was before a Committee for reviewing the Recruitment Rules so that the integration of the transferred personnel and posts takes place smoothly. The proposal for promotion of Additional Industrial Advisers to the two vacant posts of Industrial Adviser, on the basis of the existing Recruitment Rules, was sent to the UPSC. The Department was advised by the UPSC to have the the Recruitment Rules amended suitably in order to reflect the transfer of these posts to the Department of Chemicals and Petrochemicals including filling up of various posts, constitution of DPC etc.

3. Since then the matter has been in correspondence between respondents and the UPSC. It has now been stated in the affidavit filed by the respondents that the final approval of the Recruitment Rules is pending with the UPSC. The learned counsel for the respondents submits that the amendment of the Recruitment Rules can be notified immediately after the approval from the UPSC.

4. Having considered the averments made in the application as well as the submissions made by the learned counsel for the respondents, we are of the considered view that the Department has to hasten for early notification of the amended rules. We find some of the applicants in the OA have been waiting for promotion in the Department. On the submissions of the learned counsel for the respondents that no other impediment is there for examining the proposals for filling up the vacant posts of the transferred category to the Ministry of Chemicals and Fertilizers, we close this MA with the direction to the respondents to take emergent steps to have the Recruitment Rules notified within a period of two months from the date of receipt of a copy of this order. The MA is disposed of accordingly."

3. In terms of the aforesaid order, recruitment rules were framed and brought into force w.e.f. 29.5.1997. On 20.5.1998, applicant No.5 in O.A.1626/1996, Shri S. C. Bajaj, was promoted on ad hoc basis as Additional Industrial Adviser {re-designated as Additional Director (Technical)}.

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The said Shri. Bajaj was on 5.7.1999 reverted back to his substantive post of Development Officer (re-designated as Deputy Director (Technical)). The said order of reversion has been impugned by the said Shri Bajaj by preferring the other O.A. being O.A. No.1584/1999.

4. We have heard the learned counsel appearing for the contending parties. We have perused the recruitment rules which have been brought into force w.e.f. 29.5.1997 and we find that respondents are not justified in granting ad hoc promotion as has been ordered in respect of Shri S.C. Bajaj on 20.5.1998. Aforesaid rules do not contemplate promotions on ad hoc basis. The said Bajaj was, therefore, entitled to his promotion to the post of Additional Director (Technical) on regular basis and that too with effect from the date of coming into force of the rules, i.e., 29.5.1997 or the date on which the vacancy of the promotional post occurred, whichever is later. Once it is found that the said Bajaj is entitled for regular promotion, the order reverting him to his original post of Deputy Director (Technical) on 5.7.1999 cannot be sustained.

5. As far as the recommendations of the Fifth Pay Commission are concerned, they will be made applicable to Shri Bajaj and other candidates on the basis of their promotional posts to which they are entitled to be promoted under the rules of 29.5.1997. Shri Bajaj will also be entitled to all consequential

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benefits based on the regular promotion to which he is held to be entitled under the present order. It goes without saying that on granting the promotion as directed, the resultant vacancies arising will also be filled up by promoting other candidates who are found eligible under the aforesaid rules. Directions contained in the present order be carried out expeditiously and within a period of three months from the date of service of this order.

6. Present O.As. are accordingly disposed of. There shall, however, be no order as to costs.

(Ashok Agarwal)
Chairman

(Shanta Shastri)
Member (A)

/as/

Attest
19/Jan/21
W. C. P.