

Central Administrative Tribunal
Principal Bench: New Delhi

OA No. 986/99

New Delhi, this the 25th day of October, 1999

Hon'ble Shri S. P. Biswas, Member (A)
Hon'ble Shri Kuldip Singh, Member (J)

1. Keshav Ram s/o Ram Pyare,
r/o N-437, Sewa Nagar,
New Delhi.
2. Kanchan Singh s/o Malkan Singh,
r/o 644, Sector 9, R.K.Puram,
New Delhi.
3. Mehar Chand s/o Har Lal,
r/o 115, Sarai Kale Khan,
New Delhi.
4. Tek Chand s/o Balli,
r/o 115, Sarai Kale Khan,
New Delhi.

.....Applicants

(By Advocate: Shri B.B.Raval)

Versus

Union of India through:

1. Secretary,
Min. of Environment and Forests,
Paryavaran Bhawan, CGO Complex, Lodhi Road,
New Delhi.
2. The Director,
National Zoological Park,
Mathura Road, New Delhi.
3. Shri Birhama Nand, Mali,
National Zoological Park,
Mathura Road, New Delhi.
4. Shri Hari Kishan, Gangman,
National Zoological Park,
Mathura Road, New Delhi.

... Respondents

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

O R D E R (ORAL)

By Hon'ble Shri S.P. Biswas, Member (A)

The issue that falls for determination herein
is the legality of applicants right for being considered
for appointment to the post of Zoo Guards.

2. Shri B.B.Raval, learned counsel for the applicants seeks to challenge the respondents' action to fill up the post of Zoo Guards by direct recruitment on the following basis:

(i) That the post of Zoo Guards fall within Group 'D' category in which the applicants are also working and that within the same category there cannot be any direct recruitments for two different category of posts.

(ii) That the respondents have violated the principle of natural justice by allowing certain officials to be as Zoo Guards, as mentioned at page 16 of the paper book (Annexure A) who were alleged to be juniors to the applicants in the same category.

(iii) Having served the respondents for about 30 years and having not received any promotion so long, the respondents' action to have the post filled up by means of direct recruitment is vitiated and unreasonable on the ground that the respondents intend to favour juniors without allowing any opportunity of promotion to the seniors i.e. like applicants herein.

3. It is not in dispute that the recruitment rules as at Annexure A-4 relate back to 28.7.1994 and the same stipulate filling up the posts of Zoo Guards by means of direct recruitment. The Recruitment Rules also provide the 'age' that needs to be considered for conducting such selection by means of direct recruitment. The applicants

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could apply for those posts but cannot do so because of being overaged.

4. We find that the applicants seek to challenge the vires of the recruitment rules on the ground that the respondents should have adopted the policy of promoting officials like the applicants herein to a higher group/grade by means of keeping the selection confined to Group 'D' officials like the applicants. This was all the more necessary when the applicants herein, do not have the channel of promotions whatsoever and are stagnating since long.

5. We have heard learned counsel for both the parties at length and perused the records.

6. We find that the challenge of vires of the Rules is not based on any legally valid grounds. The applicants are really aggrieved of their being no promotional opportunities for them. If the applicants are really aggrieved by the recruitment rules, they are at liberty to ^{challenge the same} in terms of law at the appropriate forum.

7. In respect of the applicants' plea for stagnation in the grade for decades together, the respondents are required to consider the plight of such officials by means of applying the provisions laid down by the Govt. of India (Department of Personnel & Public Grievances and Pension) vide OM dated 9.8.1999. Details as to how such officials, stagnating over years, are to be

granted reliefs have been provided in the said OM.

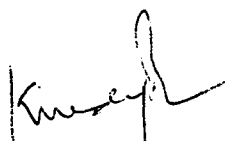
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8. The respondents would also be at liberty to consider applicants case for promotional prospects in terms of "In SITU" Promotion Scheme for Central Government Civilian Employees belonging to group 'C' and 'D' categories. The details of this particular Scheme are available in GOI OM NOs.10(1)E 111/88 dated 13.9.91, 4.9.92 and OM of Ministry of Finance No.10(1) E/111/88 dated 20.4.93.

9. The O.A. is, therefore, dismissed being devoid of merits.

10. Our order, however, will not stand in the way of the respondents to provide necessary reliefs to the applicants in terms of the orders of the Govt. of India dated 9.8.1999 or INSITU Promotion Scheme introduced by the Govt. of India vide DOP&T's aforementioned orders dated 13.9.1991/4.9.1992/20.4.93.

11. O.A. is disposed of as above. Interim order, if already in force, shall stand vacated.


(KULDIP SINGH)
Member (J)


(S.P.BISWAS)
Member (A)

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