

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1783/1995

New Delhi, this 3rd day of January, 1997

Hon'ble Dr. Jose P. Verghese, Vice-Chairman(J)
Hon'ble Shri S.P. Biswas, Member(A)

1. All India Port & Airport
Health Employees Union, through
its General Secretary
B-2, Airport Staff Colony
Delhi Airport, Palam, New Delhi
2. Shri K.C. Aggarwal
s/o late Shri S.L. Aggarwal
RZ 40, Shiv Mandir Marg
Raj Nagar-1, Palam Colony
New Delhi-45 .. Applicants

(Through Advocate Shri V.K. Rao)

versus

Union of India, through

1. The Secretary
Ministry of Health & Family Welfare
Nirman Bhavan, New Delhi
2. Director General of Health Services
Nirman Bhavan, New Delhi .. Respondents

(Through Advocate Shri V.S.R. Krishna)

ORDER

Shri S.P. Biswas

Applicant No.1 is the Association of different categories of employees engaged with discharging responsibilities in health related matters. In the present case, the association has taken up the case of Sanitary Inspectors, who form part of the union and are posted at different airports of the country. Applicant No.2 is one such Health Inspector under the respondents and posted at New Delhi. Applicants are aggrieved because of the inaction on the part of the respondents in not providing adequate avenues in the admittedly small cadre of Health Inspectors.

Consequently, they have prayed for issuance of directions to respondents for preparation of an appropriate promotional policy.

2. The basic issue for determination is whether the Sanitary Inspectors, now languishing in the pay scale of Rs.1200-2040 (revised) for the past 20-25 years, are eligible for atleast one promotion during the entire service career. Learned counsel for the applicants argued that denial of atleast one promotion in the career of these officials is against the law laid down by the Hon'ble Supreme Court. In support of his contention, he has cited the decisions of the Apex Court in the following cases:

1. CSIR Vs. K.G.S.Bhatt 1989(3)JT 513
2. Raghunath P.D.Singh Vs. Secretary, Police Govt. of Bihar-AIR 1968 SC 1033
3. Zia-ud-din Vs.Delhi Admn.-1990(1)ATC445
4. Dr. Ashok Chopra Vs. Lt. Governor 1991 (1) AISLJ 184
5. Dr.O.S. Hussain Vs. UOI AIR 1990 SC 311

3. While arguing that Sanitary Inspectors under the respondents are performing arduous jobs, as in the case of their counterparts of Railways, the counsel for the applicants argued that it is a pity that these officials under the respondents are not provided with any opportunity of promotion, unlike promotional prospects provided in the Railways.

(X)

4. As per the counsel, the qualification required, method of recruitment and even the nature of duties of the Health Inspectors are identical to their counterparts in the Railways and there are no grounds, much less a convincing ground, on the basis of which applicants could be denied a reasonable opportunity of promotion in their service career. In further support of his contention, the counsel submitted that such a step was taken for the staff car drivers working in different Ministries/Departments under the Central Government.

5. In the counter, learned counsel for respondents submitted that the application is misconceived and pre-mature inasmuch as the issues now being agitated by applicants are already under consideration of the 5th Pay Commission. Respondents would submit that there is provision for IN SITU promotion for next higher grade to those who are stagnating in the present scale for more than one year. Based on this, respondents have denied that there is no promotional opportunity in the service career of the applicants herein.

6. We have heard the learned counsel for both parties and perused the records. It is not in dispute that the applicants do not have a regular channel of promotion. It is also not disputed that the so-called IN SITU promotion cannot be termed as real promotion for the next higher grade. It only provides additional incentive in terms of financial

relief without any change in status and responsibilities. We find that the applicants are seeking better avenues of promotion on the basis of equality of work. The alleged equality of work performed by different sets of people working in different organisations will have to be evaluated. Surely, such a task must be left to be determined by an expert body. (Ghaziabad Development Authority & Ors. Vs. Vikram Chaudhary & Ors. JT 1995(5)SC 536=1995 5 SCC 210). From the records available before us, we do not find that the 5th Pay Commission, in particular, is seized with the problems of the applicants in respect of the promotional avenue. A-4 representation addressed to the Member Secretary, 5th Pay Commission remains unanswered. However, the need for promotional avenue as part of the better career prospects has been recognised. In this, we are supported by the decisions of the Hon'ble Supreme Court in the case of Raghunath Prasad Singh Vs. Secretary, Home (Police), Government of Bihar & Ors. AIR 1988 SC 1033 and Dr. Ms. O.Z. Hussain Vs. UOI & Ors. AIR 1990 SC 311.

7. In the circumstances, we allow this application and direct the respondents to consider A-4 representation, keeping in view the system

prevelant in other Ministries/Departments, particularly in Railways, and communicate the same to the applicants within three months from the date of issue of this order. We make it clear that we have not expressed any opinion on the merits of the case. - In case applicants are still aggrieved by the communication of the respondents, they will be free to agitate the issue at the appropriate forum, if they are so advised.

8. The application is disposed of as aforesaid.
No costs.



(S.P. Biswas)
Member(A)



(Dr. Jose P. Verghese)
Vice-Chairman(J)

/gtv/