

Central Administrative Tribunal
Principal Bench

O.A. 2031/95

New Delhi this the 22th day of February, 2000

Hon'ble Smt. Lakshmi Swaminathan, Member(J).
Hon'ble Shri R.K. Ahooja, Member(A).

Dr. G.D. Gupta,
Sr. Scientific Officer Grade-I (Biology),
Central Forensic Science Laboratory,
Central Bureau of Investigation,
Block 4, CGO Complex, Lodhi Road,
New Delhi-110003.

Applicant.

By Advocate Shri M.L. Chawla.

Versus

1. Union of India,
through the Secretary,
Ministry of Home Affairs,
North Block, Central Sectt,
New Delhi.
2. The Director CBI, Block No.3,
Kendriya Karyalaya Pariser Lodhi
Road, New Delhi-110003.
3. The Director Central Forensic Science,
Laboratory Block No. 4,
Kendriya Karyalaya Pariser,
Lodhi Road,
New Delhi.
4. The Secretary, UPSC,
Dholpur House,
Shahjahan Road,
New Delhi.

Respondents.

By Advocate Shri S.M. Arif.

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

The applicant has filed this application alleging that the respondents are not making appointment/promotion to the post of Senior Scientific Officer-I (SSO-I) in accordance with the Central Forensic Science Laboratory, New Delhi (Group 'A' and Group 'B' Posts) Recruitment Rules, 1982 (hereinafter referred to as 'the Rules'), notified on 31.7.1982 (Annexure A-I).

18

2. The main contention of the applicant is that the respondents are giving promotion to the post of SSO-I in contravention of the Rules. Shri M.L. Chawla, learned counsel for the applicant has submitted that under these Rules, the promotion to the post of SSO-I can only be made Division-wise, that is, in the Field for which the applicant or others are qualified. In the case of the applicant, he is specialised in Biology. The applicant had been given in situ promotion as SSO-I w.e.f. 5.2.1991 and he was earlier working as SSO-II. The learned counsel for the applicant has submitted that the applicant should have been regularised as SSO-I from the date he was so promoted as SSO-I which is the prayer in the O.A. in Paragraph 8(i).

3. The applicant has also submitted that a non-Biologist SSO-I ^{and B.} had been promoted in situ from Documents Division, having a Chemistry background and having no requisite qualification and experience in the Biology Discipline, namely, Dr. S.C. Mittal, SSO-I (Documents) whose services have been illegally regularised with effect from 1.7.1991 against a regular post of SSO-I (Biology). According to the learned counsel for the applicant, this could not be done in accordance with the Rules which should be read as laying down that promotion should be done Discipline-wise and the applicant should have been promoted to the post of SSO-I on regular basis from the date when the vacancy in the Biology Discipline fell vacant. Learned counsel for the applicant has drawn our attention to Columns 8 and 12 of the Schedule in the Rules for the post of Principal Scientific Officer (PSO). He has also relied upon Column 8 of the same Rules in the case of promotion to the post of SSO-I and has submitted that the expression "in the relevant field" shows that the required experience for being

19

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considered for these posts has to be Division-wise, that is in that particular Discipline or Field. He has, therefore, submitted that the respondents are deliberately interpreting the Rules in the manner they choose and the interpretation of the Rules should be that the promotion to the higher post has to be Division-wise. He has relied on certain averments made by the respondents in some other Original Applications filed in the Tribunal, for example, **Dr. Suresh Kumar Lahri Vs. Union of India & Ors.** (OA 748/88 - Principal Bench) in which they have, inter alia, stated that holding of the DPC according to the 1982 Rules would have operated against the interests of the Department because officers of different Divisions/Disciplines would have to be considered for promotion and such a promotion would have miserably failed in the functions of the higher post in the particular Discipline. Shri Chawla, learned counsel has, therefore, very vehemently argued that the Recruitment Rules notified in 1982 by the Department suffer from administrative drawbacks. He has further submitted that some amendment was carried out in the Rules in 1986 but not in regard to the issues raised in the present application that the Rules should be interpreted in the manner which permits promotion only in a particular Discipline/Division basis. For these reasons, the learned counsel for the applicant has submitted that the O.A may be allowed and set aside the wrongful regularisation of SS0-I from other Disciplines and regularise the applicant as SS0-I in Biology Discipline with all consequential benefits.

4. The respondents in their reply have denied that the promotion to the rank of SS0-I is made Discipline-wise. They have stated that the promotions have been made in accordance with the Rules. They have admitted that the applicant who was SS0-II was promoted in situ w.e.f. 5.2.1991

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and has continued with the same status. According to them, there is no sanctioned post of Head of Department of Biology or any other Division and the senior most expert in a particular Division is to function as Head of Division. Shri S.M. Arif, learned counsel has submitted that there is no provision for Division-wise promotion to the rank of SSO-I as contended by the learned counsel for the applicant. He has further submitted that the applicant being junior most among officers ^{on RS} in situ basis could not supersede his seniors whose services have been regularised. Learned counsel has also confirmed that the position with regard to the Rules regarding promotion to a higher post of SSO-I is not Division-wise basis and the respondents are strictly following the Rules as they are. 21

5. We have carefully considered the pleadings and the submissions made by the learned counsel for the parties.

6. The Tribunal by order dated 28.11.1995 has directed that any promotion to the post of Principal Scientific Officer that may be given will be subject to the outcome of this application. The learned counsel for the applicant had also submitted that in view of this interim order, further directions may be given to the respondents to interpret and implement the Recruitment Rules in the manner he has submitted to avoid further hardships to the applicant.

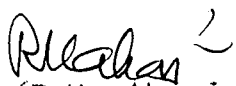
7. Column.12 of the Schedule to the Rules which deals with promotion to the post provides that SSO-II with 5 years regular service in the grade is eligible to be considered. The Rule, therefore, does not provide that SSO-II in any particular Discipline or Field ^{only RS} can be considered for promotion to the post of SSO-I. It may be correct that the


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respondents themselves have found some difficulties in the results emerging from the implementation of the Recruitment Rules ^{of} 1982. However, in case that is so, it is for the respondents to suitably amend the Recruitment Rules. During the arguments, both the parties confirm that the relevant Recruitment Rules as applicable even today are the Recruitment Rules notified on 31.7.1982. These rules do not support the contentions of the learned counsel for the applicant.

8. In the above facts and circumstances of the case, the further action taken by the respondents in terms of the Rules to regularise other qualified persons who were senior to the applicant, but in other Disciplines like Chemistry, cannot be faulted. We have also considered the other submissions made by the learned counsel for the applicant but do not find them sustainable having regard to the provisions of the Recruitment Rules of 1982.

9. In the result, we find no merit in this application. The same is accordingly dismissed. No order as to costs.


(R.K. Ahooja)
Member(A)


(Smt. Lakshmi Swaminathan)
Member(J)

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