

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

(6)

O.A. No. 1281/96

New Delhi, this 30th day of July 1996

Hon'ble Mr A.V. Haridasan, Vice Chairman(J)

Hon'ble Mr K. Muthukumar, Member(A)

1. All India Postal Officers(Accounts)
Association through its General
Secretary, Sadananda, Accounts Officer
A-2/110-E, Kondli Gharoli,
Mayur Vihar, Phase-III,
New Delhi-110 092

2. Sadananda, Accounts Officer
Department of Telecom
A-2/110-E, Kondli Gharoli,
Mayur Vihar, Phase-III
New Delhi-110 092.

...Applicants

(By advocate: Sh. Arun Bhardwaj)

VERSUS

1. Union of India
Through its Secretary
Ministry of Communications
Deptt. of Telecommunications
Sanchar Bhavan, 20, Ashoka Road,
New Delhi-110 001.
2. Member (Finance)
Telecom Commission
Sanchar Bhavan, 20, Ashoka Road,
New Delhi-110 001.
3. Deputy Director General (EF)
Telecom Directorate
Sanchar Bhavan, New Delhi-110 001.
4. Director (SEA)
Telecom Directorate,
Sanchar Bhavan, New Delhi-110 001.
5. Shri Sunil Kumar Chugh
S/o Shri Ram Krishan
R/o 5, Promise Apartments,
Vikas Puri,
New Delhi.

...Respondents

(By advocate: Sh. M.K. Gupta for
respondents 1 to 4 and Sh. A.K. Sikri
for respondent-5)

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O R D E R (Oral)

Hon'ble Shri A. V. Haridasan, VC(J)

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This application under Section 19 of the Administrative Tribunals Act, 1985^{which} has been filed by the first applicant All India Postal Officers (Accounts) Association through its General Secretary and the second applicant who is working in the capacity of Accounts Officer in the Department of Posts, is directed against the appointment of the 5th respondent to the post of Assistant Director General in the Senior Time Scale of the Indian P&T Accounts and Finance Service Group 'A' and for a writ of quo warranto against the 5th respondent against the functioning as Assistant Director General in the appointed post. The applicants also seek to have the order dated 26.10.1995 quashed as one passed in violation of the Recruitment Rules. It has been alleged in the application that in accordance with the provisions of Rule 18 of the Indian Posts and Telegraphs Accounts and Finance Service Class-I (Recruitment) Rules, 1972, recruitment by deputation or by transfer of a post in the Senior Time Scale can be made only

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in the event of non availability of suitable officers at the maintenance stage by direct recruitment or by promotion by appointing on deputation of officers of the appropriate grade from the Indian Administrative Service or a Central Service Group 'A' for a period not ordinarily exceeding three years and that as the 5th respondent is neither a member of the Indian Administrative Service nor a member of a Central Service Group 'A', is not eligible to be so appointed. It is also alleged that the competent authority has not consulted the Union Public Service Commission ~~before~~ making the said appointment.

2. Notice having been served on the respondents, Shri M. K. Gupta appears for respondents 1 to 4 and Shri A. K. Sikri appears for the 5th respondent. Respondents 1 to 4 have filed a short reply and the 5th respondent has also filed a short reply. A rejoinder has also been filed. In the reply statement a contention has been raised that the application is not maintainable and, inter alia, it has been contended that the applicants not being aggrieved persons are not entitled to maintain this application.

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It is not necessary to refer to the voluminous pleadings in this case since the issue whether this application is maintainable or not can be sorted out by finding out an answer to a simple question. Going by averments in the application none of the members of the first applicant association including the second applicant is a member of the Indian Administrative Service or a Central Service Group 'A'. Therefore, they are not eligible to be appointed to a post of Senior Time Scale in the Indian Posts and Telegraphs Accounts and Finance Service Class-I. The grievance of the applicants is that the 5th respondent who is not eligible for being appointed to a post in the Senior Time Scale of the Indian Posts and Telegraphs Accounts and Finance Service Class-I has been appointed in violation of the statutory Recruitment Rules. The question is whether the applicants are persons aggrieved who can maintain an application under Section 19 of the Administrative Tribunals Act, 1985. According to Section 19 of the Administrative Tribunals Act, 1985, a person aggrieved by an order may make an application for redressal of his grievances. The Section is specific that the application should be for

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redressal of ~~his~~ grievance and therefore a person cannot assail an order even if it is passed against the statutory provisions unless he is personally affected by such an order. Such an issue will have the character of a public interest litigation rather than an application under Section 19 of the aforesaid Act. It is settled by now that the ^{*Central*} Administrative Tribunal which has been created under the Administrative Tribunals Act, 1985 has ~~limited~~ jurisdiction in ^{*of Central Govt. officers*} regard to service matters and it is not a forum where a public interest litigation can be fought.

It is evident from Rule 18 of the Indian Posts and Telegraphs Accounts and Finance Service Class-I (Recruitment) Rules, 1972 that recruitment by deputation or transfer of an officer to the Senior Time Scale of the Service can be made in the event of non-availability of suitable officers at the maintenance stage by direct recruitment or by promotion from among the officers of the appropriate grade of the Indian Administrative Service or a Central Service Group 'A'. As none of the members of the first ^{*Number 2*} applicant association including the applicant is a person entitled for such appointment; we are of

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the considered view that they are not persons aggrieved and therefore they cannot maintain this application under Section 19 of the Administrative Tribunals Act, 1985.

3. The learned counsel for the applicants invited our attention to a ruling of the Hon'ble Supreme Court in Fertilizer Corporation Kamgar Union Vs. UOI (AIR 1981 SC.344) wherein it has been observed that public minded citizens must be given opportunities to rely on legal process and should not be repelled by ^{narrow} pedantic concept of locus standi. The above observations of the Hon'ble Supreme Court is founded on the well respected and established principle that official act should be done in accordance with law and that actions in the negations of law should not be left unchallenged; but challenge to such action should be ^{made} ~~challenged~~ before the appropriate forum which is competent to adjudicate matters of such general importance. ^{and nature}

4. In the light of what has been stated above, finding ^{this} application is not maintainable, we reject the same under Section 19 (3) of the Administrative Tribunals Act, 1985. There is no order as to costs.

(K. Muthukumar)
Member(A)

(A. V. Haridasan)
Vice Chairman(J)

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