

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

O.A.No.1767/96

New Delhi: this the 24 September, 1997.

HON'BLE M.R.S.R. ADIGE, VICE CHAIRMAN (A)

HON'BLE DR. A. VEDAVALLI MEMBER (J)

Shri V.M. Thareja, Senior Scientific Assistant,
currently discharging duties of Junior Scientific
Officer, Composite Food Laboratory,
Army Service Corps,
(Ground Floor) P-11, Havlock Lines,
Lucknow Road, Timarpur,
Delhi- 110 054

..... Applicant.

(Applicant in person)

Versus

1. Union of India,
through the Secretary,
Ministry of Defence,
South Block,
New Delhi -110 001
2. The Director General of Supplies &
Transport, Quartermaster General's Branch,
Army Headquarters, DHQ PO,
New Delhi - 110011.
3. The Deputy Director General of Supplies
& Transport (FI),
Quarter Master General's Branch,
(First Floor) P-11, Havlock Lines,
Lucknow Road, Timarpur,
Delhi- 110054

..... Respondents.

(BY ADVOCATE: Shri R.P. Agarwal)

JUDGMENT

BY HON'BLE M.R.S.R. ADIGE VICE CHAIRMAN (A)

Applicant seeks a declaration that in
the matter of posting of Technical Officers and
Junior Scientific Officers (TOs & JSOs) in the Food
Inspection Organisation (FIO) and its offices under
the Defence Ministry, Civilian Scientific Officers
are subjected to discrimination vis-a-vis service
officers. A direction is sought to respondents to
desist from the same and to designate the applicant
as TO/JSO from the date he is working against that

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post. A direction is also sought to respondents to grant the status of Group 'A' Officers to all JSOs by upgrading them to SS0, at par with their counterparts being Army Officers designated as TOs.

2. From the materials on record, it appears that the FIO of Army is engaged in bulks inspection, sampling, analysis and despatch of food items for Army Officers. Its units are commanded by Army Officers. Till 1984 FIO had a separate cadre but by Defence Ministry's letter dated 16.11.84 (Annexure-VIII) the same was merged with Army Service Corps (ASC) Cadre. Eligible Army Officers were granted study leave to pursue training in Food Technology at Central Food Technology Research Institution, Mysore and get exposure in Army Food Laboratories and upon acquiring the necessary qualifications, training and experience as laid down in Prevention of Food Adulteration Act, they are subjected to technical proficiency test and become Technical Officers and are empowered to issue verdicts on food samples. In addition, there is a cadre of Civilian Scientific Staff beginning with Jr. Lab. Asstt. and rising through 5 grades to Jr. Scientific Officers Class II/Group 'B'. Their role is to carry out Lab. analysis on food items and put up their reports to TOs for verdicts. Normally, they have no power to issue verdicts, but in

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exceptional cases, in the absence of TOs,
they are permitted to do so.

3. Applicant joined the Civilian Scientific Staff of FIO as a Jr. Scientific Asstt. in 1961 and was subsequently promoted in due course. While respondents in their reply state that at the time of filing this OA, applicant stood promoted as Sr. Scientific Asstt, he himself in Para 4 (xxiii) has stated that he was promoted further as Officiating JSO on 9.5.96 being the seniormost SSA in the unit against a post which fell vacant on 1.5.96 on superannuation of the existing incumbent. The DPC for promotion of SSA was stated to have been held on 4.6.96 for two vacancies and applicant contends that he stood at Sl. No. 2 in the seniority list with outstanding/very good ACRs, but the 2nd post on which the applicant claims he had a right was earmarked for an SC candidate and was filled on 10.7.96. He states that he filed a separate OA-1300/96 on 25.7.96, but meanwhile the respondents on 14.6.96 cancelled his promotion order and posted another person for two days and sent him on transfer to Lucknow on 18.7.96. However, he states that by order dated 19.6.96 he was directed to issue verdicts on wheat and wheat products, rice and all periodical samples, and again by order dated 21.6.96 he was directed to sign typed copies of the verdicts issued. He states that he was given all the duties of

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JSO from 19.6.96 onwards but without any change in his status and he was also refused permission to act as officiating JSOs. However, it appears that subsequently by letter dated 7.5.97 (Annexure-K) applicant has again been promoted as officiating JSO.

4. From the foregoing it is clear that while the post of Technical Officer in FIO is manned by Army Personnel, the Civilian Scientific Staff can rise up to the level of JSOs in that Organisation. Applicant has undoubtedly a legally enforceable right to be considered for promotion, subject to eligibility and availability of vacancies, within his own stream i.e. that of Civilian Scientific Staff but not in the stream manned by Army Personnel. In the Civilian stream the highest post in FIO is that of JSO and applicant himself in paragraph 4(xxvi) of the OA has admitted that while the post of Technical Officer is a Group 'A' post, the post of JSO is only a Group 'B' post. The stream of TO being separate, different and distinct from that of JSO and the post of TO, as per applicant's own averments, being a Group 'A' post while that of JSO being a Group 'B' post, applicant cannot successfully allege discrimination because a person can legitimately aspire to promotions against available vacancies only within his own stream and not in another stream. In the present case, neither Article 14 nor Article 16 of the Constitution are attracted.

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to warrant ^{for} declaration sought by applicant.

5. Furthermore, no direction can be issued to respondents to grant the status of Group 'A' Officers to JSOs when applicant himself admits that the posts of JSO are Group 'B' posts. It is no doubt open to respondents to upgrade the post of JSOs to that of Sr. SO in Group 'A' category, or create posts of Sr. S.O in that category if upon objective criteria they are disposed to do, but such a decision is a policy matter outside the Tribunal's jurisdiction.

6. In so far as the question of designating applicant as JSO/TO from the date he is working on that post is concerned, manifestly he cannot be designated as TO when he does not belong to that stream and can be designated as JSO only for such period as he actually holds that post.

7. In the result, the OA warrants no interference and it is dismissed. No costs.

A Vedavalli
(DR.A.VEDAVALLI)
MEMBER(J)

S. R. Adige
(S. R. ADIGE)
VICE CHAIRMAN(A).

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