

Central Administrative Tribunal, Principal Bench

Original Application No.311 of 1996

New Delhi, this the 21st day of January, 2000

Hon'ble Mr.R.K.Ahooja, Member (Admnv)
Hon'ble Mr.Kuldip Singh, Member (J)

1. Shri D.C.Chauhan, Asstt. Foreman
2. Shri P.N.Agarwal,Asstt. Foreman
3. Shri A.K.Goyal, Chargeman Grade-I
4. Shri J.S.Anand Chargeman Grade-I
5. Shri Sunheri Lal Chargeman Grade-II
6. Shri R.C.Tiwari,Chargeman Garde-II

HQ Directorate of Quality Assurance (Engg. Equipments),Kashmir House,New Delhi-110011-Applicants

(By Advocate - Shri Alok)

Versus

1. Union of India through the Secretary, Ministry of Defence, New Delhi-110011
2. The Director General, Directorate General of Quality Assurance, South Block, DHQ PO, New Delhi-110011.
3. The Director, Directorate General of Quality Assurance (Adm.7B), DHQ, PO, New Delhi-110011.
4. The Director, Directorate of Quality Assurance, (Engineering Equipments), Kashmir House, New Delhi- 110011
5. The Director, Directorate of Quality Assurance, (Armaments), 'H' Block, DHQ PO, New Delhi-110011.
6. The Director, Directorate of Quality Assurance (Stores), 'H' Block, DHQ PO, New Delhi-110011. - Respondents

(By Advocate - None)

O R D E R(O R A L)

By R.K.Ahooja, Member(Admnv) -

Applicants 1 & 2 herein are working as Assistant Foreman with the Directorate of Quality Assurance Engineering Equipments, New Delhi; applicants 3 & 4 are working as Chargeman Grade-I; and applicants 5 & 6 are working as Chargemen Grade-II. The grievance of the applicants is that the respondents had undertaken a cadre review of Group 'B', 'C' and 'D' categories of

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the employees of the Directorate of Quality Assurance working in the Ministry of Defence and by their order dated 18.7.1995 they created certain additional posts on the technical side in the grade of Foreman, Assistant Foreman, Chargeman Grade-I and Chargemen Grade-II. They submit that as per the decision of the Cadre Review Committee which was accepted by the respondents the increase in posts in various categories had to be done on pro-rata basis. They claim that if this decision had been implemented the number of posts of Foreman would have been 62 instead of 58; those of Assistant Foreman would have been 67 instead of 62; those of Chargeman Grade-I would have been 46 instead of 44 and those of Chargeman Grade-II would have been 76 as mentioned by the respondents. In view of the non-implementation of the policy of pro-rata increase in posts the applicants have been deprived of consideration for promotion. It is on that basis that directions are sought by the applicants to the respondents to observe the prorata method of distribution of posts created/upgraded due to cadre review.

2. The respondents in their reply have stated that they had followed the policy of prorata increase in the number of posts except in marginal cases. Considering the stagnation in the cadre of technical staff of the Stores Department, some of the posts on the engineering side have been diverted to the store side.

3. We have heard the counsel for the applicants. None has appeared on behalf of the respondents.

4. The order of the respondents for creation of the posts dated 19.9.1995 reads as follows:-

Ans

"2. The sanction of the Government was conveyed .. for creation/ upgradation of posts in certain categories of Group 'B', 'C' & 'D' employees. The issue of distribution of posts in various disciplines was discussed in PPB Meetings held on 24 July 95 and 25 Aug 95 at length. After extensive deliberations it was decided to adopt pro-rata method of distribution in various categories. However, certain very marginal adjustments could be allowed in the disciplines/ categories where there had been certain inherent structural deficiencies."

The aforesaid order clearly states that the prorata method would be followed except in certain very marginal adjustments where there had been inherent structural deficiencies. According to the respondents they have not allowed the full prorata increase in the categories of Foremen and Chargemen because of marginal adjustments in view of the acute stagnation on the Store side. The learned counsel for the applicants submits that the diversion made by the respondents cannot be treated as marginal adjustment. Against the possible increase on application of the prorata system of 8 posts of Foreman the respondents have diverted no less than six posts. Therefore, the diversion is to the extent of 80%. This cannot according to the learned counsel be treated as a marginal readjustment. He also sought to show that structural deficiency in the cadre of Engineering staff of Foreman etc. was equally, if not more acute than in other cadres.

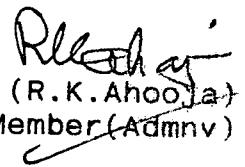
5. We have carefully considered the aforesaid submissions. In our view the creation of posts and their distribution amongst different disciplines is essentially a matter of executive policy. The Tribunal cannot substitute its judgment as to whether the structural adjustment required creation of more posts in one discipline than in other. It is ^a the matter which is

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in the domain of the executive who can best judge the requirement of different disciplines. The contention of the learned counsel that the prayer of the applicants is not for change in policy but only for implementation of the policy does not affect this basic issue. We have also seen the policy decision of the respondents allowing for marginal adjustments. The policy decision itself offered scope for variation in the prorata allocation of posts amongst different disciplines.

6. In terms of various decisions of the Supreme Court e.g. Commissioner, Corporation of Madras Vs. Madras Corporation Teachers Mandram and others, (1997) 1 SCC 253 it is not for the Tribunal to give directions to the respondents to create a post since that matter falls within the executive policy of the Government. By the same logic not only creation of posts but also the distribution of posts amongst various disciplines would also fall within the domain of the executive policy. Accordingly finding no scope of interference, the OA is dismissed. No order as to costs.


(Kuldip Singh)
Member (J)


(R.K. Ahuja)
Member (Admnv)

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