

2
CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA NO. 402/96

2
New Delhi this the 11th day of April 2000

HON'BLE MR. JUSTICE ASHOK AGARWAL, CHAIRMAN
HON'BLE MR. V.K. MAJOTRA, MEMBER (A)

1. Mrs. P.K. Bedi,
Wife of Shri Manjeet Singh,
R/o 140-B, Delhi Administration Flats,
Timarpur, Delhi.
2. Mrs. Renu Chopra,
W/o Shri V.K. Chopra,
D/169, Ram Prastha Colony,
P.O. Chander Nagar,
Distt. Ghaziabad, U.P.
3. Mrs. Bimla Chowdhary,
W/o Shri Jagjit Singh,
1268, Delhi Administration Flats,
Gulabi Bagh, Delhi.
4. Mrs. Usha Kadiyan,
W/o Shri N.K. Kadyan,
D-1, Seva Kutir Flats,
Kingsway Camp, Delhi-9.
5. Mrs. Rajeshwari Chauhan,
W/o Shri R.S. Chauhan,
B-21, Delhi Administration Flats,
Timarpur Delhi.
6. Mrs. Aruna Gupta,
W/o Shri A.K. Gupta,
A-63-A, Sector-19,
Noida, Ghaziabad, U.P.
7. Mrs. Hem Lata,
W/o Shri Rajesh,
Staff Quarter No.1,
Kasturba Niketan,
Directorate of Social Welfare,
Lajpat Nagar, New Delhi-110024.
8. Mrs. L.S. Nathenilal,
W/o Shri Nathenilal, R.B.
R-42-D, Dilshad Garden,
New Delhi.
9. Mrs. Ratna Manjari,
W/o Shri Y.K. Bhardwaj,
6A, Kamla Nagar, Delhi-110007.
10. Mrs. Veena Kapoor,
W/o Shri Parveen Kapoor,
22/23 Tilak Nagar,
New Delhi.

2
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11. Mrs. Aruna Pathak,
W/o Shri Pathak,
R/o C/2/169, Janakpuri,
New Delhi-110058.

12. Mrs. Basanti,
W/o Shri Prakash Chander
957, Kalyanwas, Delhi.

13. Mrs. Sukhvinder,
W/o Shri Balbir Singh,
House No. 41-D/83, Old Mahavir Nagar,
Near Tilak Nagar, Gali No.2,
Delhi-110018.

14. Mrs. Shanti Sagar,
W/o Shri Madan Lal,
A-6-279, C-Paschim Vihar,
New Delhi.

15. Mrs. Vedo Rana,
R/o 4/18, Jaidev Park,
New Delhi.

16. Mrs. Neeru Mehta,
W/o SHri Sunil Mehta,
927, Baba Kharag Singh Marg,
New Delhi-110001.

...Applicants

(By Advocate: Shri G.D.Gupta)

Versus

1. Department of Women and Child Development,
Ministry of Human Resources Development,
Government of India, New Delhi.

2. Government of National Capital
Territory of Delhi, through
its Chief Secretary,
Department of Social Welfare,
5, Sham Nath Marg,
Delhi-110054.

3. The Secretary,
Government of National Capital Territory of
Delhi, 5, Sham Nath Marg,
Delhi-110054.

4. The Director,
Directorate of Social Welfare,
Government of National Capital Territory of
Delhi, Kasturba Gandhi Marg, New Delhi.

...Respondents

(By Advocate: Shri George Paracken)

93

ORDER (Oral)BY MR. V.K. MAJOTRA, MEMBER (A)

The applicants were Supervisors appointed between July, 1997 and March, 1980 under Integrated Child Development Scheme (ICDS). They were appointed under the Recruitment Rules for the post of Mukhya Sevika, Supervisor notified on 21.9.1976 (Annexure-A) - ~~hereinafter~~ referred to as Rules of 1976 - fulfilling the qualifications of graduation and 2 years experience in social work from a recognised Institution. At the time of filing of the OA there were 27 projects functioning under the ICDS Scheme with 135 Supervisors. Under the Scheme, every year one project is added. At present 29 such projects are functioning in different States. It is envisaged in the Scheme that whereas the funding is provided by the Central Government, the recruitment of staff and management and implementation of the Scheme are organised by the respective State Governments. Generally in a project there is one post of Child Development Project Officer (CDPO), 4 posts of Supervisors, 100 posts of Anganwari Workers and another 100 posts of helpers. Later on promotion from the post of Supervisor was provided to the post of Lady Probation Officer Grade-I/Lady Inspector Social Welfare/Superintendent Sanskar Ashram for girls, Deputy Superintendent Home for Healthy Female Children of Leprosy patients. Rules of 1976 were

amended vide Notification dated 8.7.1977 Annexure D Under 1977 Amendment promotion was provided from Supervisors with three years' experience in the grade to the extent of 70% of the promotion quota of 75% and the remaining 5% of the promotion quota was ear-marked for B.A.B.T. Teachers with 3 years' experience . 25% of the posts were to be filled up by Direct Recruitment. The 1971 Recruitment Rules for various Class III Posts were amended on 24.8.1979 (hereinafter referred to as the Amendment Rules of 1979"). Rules of 1971 were further amended on 21.12.1984 (hereinafter referred to as the Amendment Rules of 1984) Annexure-I. The main change made by these rules was that the various posts were required to be filled up only by promotion failing which by Direct Recruitment to the extent of 100% of the posts. Another change was that now instead of 3 years' regular service in the post of Supervisor, 5 years' regular service was made essential for promotion. Vide Notification dated 28.1.1987, the Recruitment Rules of 1976 were cancelled and replaced by the Fresh Recruitment Rules for the post of Supervisor (Women) Annexure-J. Vide these Rules, the post of Supervisor was required to be filled up by Direct Recruitment to the extent of 100% of the posts. According to the applicants' provision for promotion from the post of Supervisor (Women) ~~was~~ ^{is} to the Higher Post of C.D.P.O. as per the

guidelines of the Government of India was to be made. As per letter dated 9.2.1984 of the Government of India, Ministry of Social Welfare and the letter dated 20.5.1986 marked as Annexure-L, it was inter alia, provided that for promotion to the post of C.D.P.O. the Recruitment Rules should be so framed/revised as to provide for filling up 75% of the posts by promotion from female supervisors of ICDS Projects and the remaining 25% posts by direct recruitment. In the meantime certain posts of C.D.P.O. were advertised in the Newspapers to be filled up by direct recruitment. On representation of the applicants (Annexure-M) the Government cancelled the interviews scheduled to be held on 3.4.1986 in pursuance of the aforesaid advertisement. However, instead of providing promotions to the post of C.D.P.O. from Supervisors (Mukhya Sevika), the Government created some posts of Assistant Child Development Officers (ACDPO). Consequently the Supervisors did not remain the feeder grade to the post of C.D.P.O. As a result instead of getting direct promotion to the post of C.D.P.O. the Supervisors were clubbed with various other posts like Welfare Officer, Craft Instructor and B.A.B.T. Teacher for a small number of four posts of A.C.D.P.O. The qualification for the post of ACDPO was kept as 5 years of service with minimum qualification of graduation. Vice order dated 21.10.1987 applicant Nos. 1 to 3 were

26

promoted as Deputy Superintendent in the scale of Rs. 1640-2900 on purely adhoc basis. Applicants Nos. 4, 7 and 8 were promoted as Deputy Superintendent on purely adhoc basis vide order dated 22.6.1988. Applicant No. 5 was similarly promoted on 31.3.1993. Applicants have averred ^h that though 135 posts of Supervisors with experience between 16 and 20 years are there they have been facing acute stagnation and only four posts of ACDPO cannot ameliorate their predicament. The Recruitment Rules of 1989, so far as the post of CDPO is concerned provide filling the post of C.D.P.O. by direct recruitment to the extent of 50% of the posts and by promotion to the extent of 25% of the posts and the remaining 25% of the posts are required to be filled up by transfer or deputation. Even in the method of promotion a large number of other posts like Lady Probation Officer, Prison Welfare Officer, Guidance Officer etc. have been made feeder and promotion is not confined exclusively to the supervisors. Applicants have alleged that the action of the Government has been contrary to their own guidelines.

2. The applicants have sought declaration that the applicants are entitled for promotion to the post of C.D.P.O. and/or in the alternative to the post of Deputy Superintendent etc. from the

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date when they completed 3 years' service as Supervisor with all consequential benefits. The, have also sought restraining the respondents from filling the posts of C.D.P.O. to the extent of 14 posts in pursuance of the advertisement dated 30.3.95 till the fresh Recruitment Rules are made providing promotion to the post of C.D.P.O from amongst the supervisors to the extent of 75% of the posts and in the remaining 25% direct recruitment quota to the post of CDPO giving relaxation of age to supervisors to the extent of the length of their service in the post of supervisor .

3. In their counter, respondents have stated that prior to the notification dated 14.4.1988 of fresh Recruitment Rules, for the post of Dy. Superintendents, there were two separate sets of RRs for the post of Dy. Superintendent (female) and Dy. Superintendent (Male). On availability of vacancies of Dy. Superintendent sanctioned in female institutions promotions were made from the feeder line of Mukhya ^{Sevika} ~~Services~~ and similarly in Male institutions promotions were made from other feeder cadres. Vide Notification dated 11.12.1984 regarding the post of Dy Superintendent/Superintendent etc. it was provided that promotion to the post of Dy Superintendent/Superintendent would be made from the post of Supervisor/Mukhiya Sevika and not t

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the post of CDPO. Government of India guidelines dated 20.5.1986 envisaged filling up of 75% posts of CDPO by promotion from Supervisors of ICDS projects. The department sent a proposal of amendment to the Service department which, in turn, sent aforesaid proposal to the UPSC. In the meantime, three posts of Asstt. Child Development Project Officer (ACDPO) in the pay scale of Rs 1640-2900 were sanctioned in three ICDS Projects. As per Govt. of India letter dated 23.2.1987 it was provided that RRs for appointments to the posts of CDPO and Supervisor of ICDS Projects would continue to be framed by the State Govt./UT Administration keeping in view the guidelines issued by the Central Government from time to time. According to the respondents, due to change of position i.e. creation of intermediate post of A.C.D.P.O. and keeping in view the liability of State Government/Administration for providing promotional avenues as per the guidelines of Govt. of India, a revised amendment proposal awarding promotional channel to the post of Supervisor for the posts of A.C.D.P.O. was sent to the services department. The post of A.C.D.P.O. was also clubbed with other posts Dy. Superintendents sanctioned in the department. The existing Recruitment Rules for the posts of Supdt ./CDPO were notified on 20.3.1989 with the approval of U.P.S.C. As such the post of Supervisor could not

22

be provided the promotional avenues to the posts of CDPO as per the guidelines of Govt. of India. According to the respondents, at present though there are 5 posts of ACDPO /Dy. Superintendents in the department, 8 Supervisors have got promotion to the posts of ACDPO /Dy. Superintendent.

4. We have heard the counsel on both sides and examined the material on record. The ICDS is a Scheme based on intersectional approach to the development of children and women. It delivers a package of inter-related services crucial to the growth and development of young children and women. It is a centrally sponsored scheme implemented through the State Governments and Union Territory Administration with 100% financial assistance from the Central Government. Govt. of India in the Ministry of Social Welfare acts as a nodal Minister for budgetary control and direction of the implementation of the scheme at the State/Union Territory level. The scheme was introduced in 1975 and every year a new Project is sanctioned by the Ministry of Social Welfare. It has the CDPO, Supervisors (Mukhya Sevikas) Anganwadi Workers, Helpers, UDC,LHV, Doctor. Initially 30 Projects were sanctioned in 1975. Currently, there are 25 posts of C.D.P.O., 32 posts of Superintendent, 26 posts of Dy. Superintendent, six posts of ACDPO, 158 Supervisors, 36 Craft Instructors, 13 B.A.B.T

30

Teachers and 127 Welfare Officers. According to the learned counsel of the applicants supervisors have not been given legitimate promotion and have been discriminated against on most occasions whenever they were due for promotion. The Recruitment Rules were changed in such a way that they were deprived of their due promotion. Officials who are otherwise not eligible for the posts of CDPO/ACDPO as per guidelines, were made eligible and accommodated on promotional posts with preference to the Supervisors. Although five female Supervisors were eligible for promotion to the posts of Dy. Superintendent under Rules of 1977 in 1982 they were bye-passed. In 1984 fresh Recruitment Rules were framed for the post of Dy. Superintendent on 11.12.1984. Various categories including Supervisors with 5 years experience were made eligible for promotion to this post. Five Supervisors were eligible for promotion to the posts of Dy. Superintendent in 1984 but they were not considered. Learned counsel of the applicants drew attention to guidelines issued on 23.2.1984 (Annexure-L) wherein it was suggested that recruitment of CDPO may be done by direct recruitment/ promotion. In order to ensure that people with the right qualifications and background are available, it was suggested that 66% of the posts be filled by direct recruitment of persons preferably with post graduate Degree in Child

Development, Nutrition and Social Work. Since the programme deals with women and children, CDPO should generally be women. The remaining 33% of the posts were proposed to be filled by promotion from among the graduate Mukhyasevikas of the ICDS programme. It was also suggested that the majority of the Mukhyasevikas should be recruited directly and should be graduate in subjects like Child Development, Nutrition and Social Work. Mukhyasevikas should invariably be women.

5. Vide letter dated 23.2.87 Govt. of India suggested to the Delhi Administration as follows:-

"A few days back, Shri R.B.S. Tyagi, Joint Director in your Directorate, visited our office and enquired whether promotion quota in the post of CDPO could be for ACDPOs and equivalent Officers. In this connection, it may be clarified that, in Shri Qurashi D.O. letter dated 4.2.1987, Delhi Administration had already been categorically advised that the 75% promotion quota in the cadre of CDPO should be from ICDS Mukhya Sevikas only. As such, the question of making promotion to the post of CDPO from those of ACDPO's and equivalent should not arise.

As you are aware, there are 23 posts of CDPOs. The feeder service for promotion to these posts could not be of a cadre with just 3-4 posts of ACDPO. It was among other things because of this consideration that we had approved Delhi Administration's proposal for restricting selection to the cadre of ICDS Supervisors, which presently number about 110.

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As regards the question of filling up of 3-4 posts of ACDPO, we would suggest that, because of the very small number, the same need not be encadred with any other cadre. The senior most Mukhya Sevika, subject to her fitness, could be appointed as ACDPO, either in the scale of Rs. 550-900 or in her own scale of pay with some special pay, instead of having a separate cadre of ACDPOs either independently or jointly with Deputy Superintendents etc".

6. However, Government of India came out with another set of Recruitment Rules on 20.3.1989 against the above guidelines/suggestions. Posts of CDPO /ACDPO were merged with Superintendent/Dy Superintendent respectively instead of earmarking posts of CDPO /ACDPO for promotion of Supervisors. These posts were opened up for Case Workers/Probation Officers/Welfare Officers and in 1989, 24 posts of CDPO and 33 posts of Superintendent were virtually filled from persons other than Supervisors. Earlier on 21.10.87 only 9 officers were promoted to the posts of ACDPOs/Dy Supdt , three of whom were regularised in 1994 after 7 years and the remaining six in 1996 after 9 years.

7. Learned counsel of the respondents contended that although Govt. of India had issued guidelines for ICDS those provided only "general modal" which could be adopted by the State Governments to the local circumstances (Annexure-C). The respondents had sent proposal to

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the Govt. of India providing for promotion to the post of CDPO from the post of Supervisor to the extent of 75% vide their letter dated 20.5.1986. The situation changed with the creation of intermediate three posts of ACDO. The earlier proposal had to be amended and the posts of ACDPO were clubbed with those of Dy. Superintendent (both in the scale of Rs. 1640-2900) for providing promotional avenues to Supervisors alongwith other categories like Welfare Officers, B.A.B.T. Teachers, Craft Instructors,etc. etc. The Recruitment Rules for the posts of Supdt /CDPO were notified on 20.3.89 with the approval of UPSC and thus the Supervisors could not be provided promotional avenue to the posts of CDPO as per the guidelines of G.O.I. The Scheme of things under the ICDS and the related guidelines issued from time to time had been in favour of providing a larger share to the supervisors CDPO for promotion. Even as late as 20.5.1986 vide Annexure-L State/UT Governments had been advised by the department of Women and Child Development that "for recruitment to the posts of CDPO , the Recruitment Rules should be so framed or revised as to provide for filling up of 75% of the posts by promotion from Supervisors of ICDS Projects and the remaining 25% by direct recruitment". Thereafter vide letter dated 23.2.1987 (Annexure-N) the above line of thinking had been further strengthened when it was

clarified that 75% quota in the cadre of CDPO has to be from ICDS Mukhya Sevikas only and as such the question of making promotion to the posts of CDPO from those of ACDPO and equivalent should not arise. As regards the question of filling up of 3-4 posts of ACDPO it was suggested that these small number of posts need not ~~to~~ be encadred with any other cadre and the seniormost Mukhya Sevikas subject to their fitness could be appointed as ACDPOs in the scale of the post of ACDPO or in their own scale of pay with some special pay. The respondents have come out with a very lean and inadequate reasoning for deviation from the aforesaid guidelines/line of thinking when they stated that the creation of three posts of ACDPO has led to revision in the earlier proposal for providing promotion to the posts of ACDPO /CDPO and they had to club the category of Supervisors with various other categories for promotion to the intermediate level of ACDPO /Dy. Superintendent and the provisioning of direct promotion of Supervisors to the level of CDPO had to be given up. The creation of a few intermediate posts between the post of Supervisor and posts of CDPO does not provide justification enough for a major change in the policy for providing promotional avenues to the Supervisors to their disadvantage. But, this being a policy matter, there is a very limited scope under judicial review to interfere

with this. However, to meet the ends of justice, we have no hesitation in holding that policy under the guidelines for providing promotion under the ICDS Scheme to the extent of 75% of the posts of CDPO from amongst Supervisors should be followed up to the point of time when Rules of 1989 were put into effect. In this view of the matter, the respondents should calculate the total number of sanctioned posts of CDPO as on 20.3.1989 when the 1989 Rules were promulgated. 75% of these posts should have been filled up by promoting Supervisors (Mukhya Sevikas). Supposing the sanctioned number of posts of CDPO was 20 as on 20.3.1989 75% thereof i.e. 15 such posts should have been filled from the category of Supervisors. In case 5 such posts had been filled up from the category of Supervisor, 10 more should have been filled from the posts of Supervisor by promotion. Such deficiency should be made up by promoting as many Supervisors now to the post of CDPO and till such time that these many slots are not available to the Supervisors promotion from other categories under the 1989 Rules should not be resorted to. In this manner after filling up 75% posts of CDPO as on 20.03.1989 from the posts of Supervisor, respondents would be free to fill up the vacancies becoming available after 20.3.1989 from different categories including the Supervisors as per the provisions of 1989 Rules.

36

8. The OA is disposed of in the above terms. No costs.

Ashok Agarwal
(ASHOK AGARWAL)
CHAIRMAN

V.K. Majotra
(V.K. MAJOTRA)
MEMBER (A)

cc.