

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.NO.426/96

Hon'ble Shri Justice V.Rajagopala Reddy, VC(J)
Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this the 6th day of December, 1999

Shri Amar Nath Rai
s/o Late Shri K.D.Rai
r/o 846, Baba Kharak Singh Marg
New Delhi. ... Applicant

(By Advocate: Shri R.K.Sinha)

Vs.

1. Union of India through
Secretary
Ministry of Agricultural
Krishi Bhawan
New Delhi.
2. Secretary
Union Public Service Commission
Shahjahan Road
New Delhi.
3. The Secretary
Department of Personnel and Training
North Block
New Delhi. ... Respondents

(By Advocate: Shri Anil Singhal proxy of Mrs. P.K.
Gupta)

O R D E R (Oral)

R.K.Ahooja, Member(A)

The applicant, working as an Editor since 1985, is aggrieved by his non promotion as Joint Director, Farm Information (JDFI). He submits that he had gone on deputation to the University Grants Commission (UGC) as Principal Information Officer and remained on deputation from 26.9.1988 to 4.7.1994. On return from the deputation, he found that there were two vacancies of Joint Director, Farm Information available. The recruitment rules which were notified as per GSR 155 dated 9.2.1985 read as follows:

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Method of recruitment i) 50% by promotion failing whether by direct recruitment or by promotion or by deputation/ transfer and percentage of vacancies to be filled by various methods. ii) 50% by direct recruitment.

2. The applicant submits that according to the respondents the direct recruitment vacancy was reserved for Scheduled Tribe. Against the promoted vacancy his senior Ms. Shukla Hazara was promoted on ad hoc basis and was later regularised w.e.f. 3.4.1995. However she superannuated on completion of three months service w.e.f. 31.7.1995. The grievance of the applicant is that the respondents are proposing to fill up the consequential vacancy also by direct recruitment over looking the claim of the applicant.

3. The respondents in the reply have stated that as per the roster system first vacancy has to go for direct recruitment and the second vacancy should be filled by promotion. Accordingly as there were two posts of Joint Directors(Farm Information), the first vacancy was filled up by direct recruitment w.e.f. 19th December, 1995 while the second vacancy was filled up by promotion from 3.4.1995. Now that the third vacancy has arisen, as per the roster system this also has to go for direct recruitment.

4. We have heard the counsel. If the respondents reasoning were to be accepted, the result would be that both the posts available in the cadre would be filled by direct recruits. This would mean that the posts of Joint Director would be filled up 100% by direct recruitment. This, as we have seen,

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would be contrary to the recruitment rules which provide for 50% recruitment by promotion and 50% by direct recruitment. In our view, the purpose of providing a roster to which the respondents have referred is to ensure that the objective of the recruitment rules, i.e., 50% by each method should be fulfilled. Once that objective is achieved the roster system becomes redundant. Thereafter a post vacated by the direct recruit has to go to direct recruitment while the post vacated by a promotee has to be filled up from the promotion quota. Admittedly, the present vacancy has become available through the retirement of Ms. Shukla Hazara who had been appointed from the promotion quota. In view of this position, the consequent vacancy has to be filled up from the promotion quota.

5. A similar view was taken by the Supreme Court in R.K.Sabharwal and Others Vs. State of Punjab and Others, (1995) 2 Supreme Court Cases 745. In respect of the roster system used for making appointment from the reserved quota and the Supreme Court had held that such rosters are operative till all the roster appointments in the cadre are duly filled and the quota prescribed by instructions is achieved.

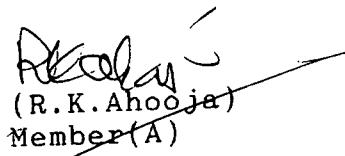
6. We find support for our conclusion in the fact that if the reasoning adopted by the respondents were to be accepted the net result could be that persons in the feeder cadre will virtually have no scope for promotion for a very long period. According to the respondents the first vacancy which has gone to

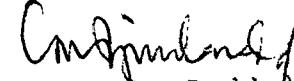
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the direct recruitment was filled on 19.12.1995. Considering the young age of direct recruit if the next post also goes to the direct recruitment quota, a promotion vacancy will not be available for quite many years. This will in fact be contrary to the objective of the recruitment rules and would virtually confine the cadre of the Joint Directors to the direct recruits.

7. In the light of the above discussion the OA is allowed. The respondents are directed to fill up the vacancy, on the retirement of the promotee, though the promotion quota. On the selection of promotee the appointment of Dr. N.S.Ingale, Senior Extension Officer made vide order dated 30.9.1996 subject to the outcome of this OA will come to an end. Necessary action will be taken within a period of three months from the date of receipt of a copy of this order. No costs.


(R.K. Ahooja)
Member(A)


V.Rajagopala Reddy
Vice Chairman(J)

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