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CENTRAL ADMINISTRATIVE TRIBUNAL  
Principal Bench

O.A. No. 1221 of 1997

New Delhi, dated the 24<sup>th</sup> February 1998

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)  
HON'BLE Mrs. LAKSHMI SWAMINATHAN, MEMBER (J)

1. C.P. John,  
S/o late Shri P.C. Paily,  
R/o S-VII/988, Pushp Vihar,  
New Delhi.
2. D.P. Misra,  
S/o Shri R.R. Misra,  
R/o Opp. Badarka,  
Police Chowki Badarka,  
Azam Garh-223001.
3. D.D. Sharma,  
S/o Shri N.P. Sharma,  
R/o 23/3 Sarojini Nagar,  
Railway Colony,  
New Delhi.
4. Ganga Singh,  
S/o Shri Bhoop Singh,  
R/o 686, Type IV, Sector III,  
R.K. Puram, New Delhi.
5. R.K. Shukla,  
S/o Shri Ram Chander Shukla,  
R/o A-117, HIL Apartments,  
Rohini, Sector-XIII,  
Delhi-110085.
6. T.K. Ray,  
S/o Shri S.K. Ray,  
R/o CK-173, Salt Lake City,  
Sector-2,  
Calcutta-91.
7. D.L. Sehgal,  
S/o late Shri Ram Das Sehgal,  
R/o 146/18, D. Pura,  
Rohtak, Haryana.
8. R.B. Bijalwan,  
S/o Shri S.R. Bijalwan,  
R/o NC-19, Cavel Colony,  
Okhla, New Delhi.
9. Darshan Lal,  
S/o Shri Sain Das,  
R/o C-5/A-252, Janakpuri,  
New Delhi.

10. D. Chakravorty,  
S/o Shri S.K. Chakravorty,  
R/o C-246, Netaji Nagar,  
New Delhi.
11. A. Duraiswami,  
S/o Shri D. Apavu,  
R/o 340, Block-18, Lodhi Colony,  
New Delhi.
12. N.K. Vaishno,  
S/o Shri M.D. Vaishno,  
R/o 14-B, Vishal Kunj,  
Tagore Garden Extn.,  
New Delhi.
13. Govind Baboo,  
S/o late Shri R.B. Lal,  
R/o 68-B, Gali No.5,  
Kundan Nagar,  
P.O. Luxmi Nagar,  
Delhi-110092.
14. Bibhuti Rai,  
S/o Shri B.B. Rai,  
Unit V, Bidyur Marg,  
New Capital Bhubaneswar. . . . APPLICANTS

(By Advocate: Shri A.K. Behera)

VERSUS

1. Union of India through  
the Secretary,  
Ministry of Home Affairs,  
North Block,  
New Delhi.
2. The Director,  
Intelligence Bureau,  
North Block,  
New Delhi-110001.
3. The Secretary,  
Union Public Service Commission,  
Dholpur House,  
Shahjahan Road,  
New Delhi-110011.
4. I.S. Gupta,  
S/o late Shri B.L. Gupta,  
R/o Qr. No.N-529,  
Sector 9, R.K. Puram,  
New Delhi-110022.

5. M.L. Bhandari,  
S/o Shri R.D. Bhandari,  
R/o 373/7A, Faridabad,  
Haryana.
6. L.K.C. Sinha,  
S/o late Shri G. Sahay,  
R/o Qr. No. 70/IV, North West Motibagh,  
New Delhi-110021.
7. Y.K. Prasad,  
s/o late Shri Shyama Prasad,  
R/o Qr. No.125/IV,  
North West Moti Bagh,  
New Delhi-110021.
8. Johnson Nayagam,  
A.T.O., SIB,  
Thiruvananthapuram.
9. K.G. Chopra,  
S/o Shri A.V. Chopra,  
R/o C-156, Nanakpura,  
New Delhi-110021.
10. P.D. Kanojia,  
I.B. Quarters,  
East Block-VI, Level 5,  
R.K. Puram,  
New Delhi-110066.
11. O.P. Arora,  
S/o Shri Nand Lal,  
R/o Qr. No.BA-295/2,  
Tagore Garden,  
New Delhi-110027. .... RESPONDENTS

(By Advocates: Shri R.V. Sinha for R-1 to 3  
Shri M. Chandrashekhar with  
Shri B.B. Raval for R-4 to 11)

J U D G M E N T

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

Applicants seek quashing of Col.12(b) of Recruitment Rules for the post of Asst. Directors (Technical) in I.B. with consequential benefits.

2. Applicants joined as direct recruit Technical Officers between 1990 and 1992. The next promotional post is that of Asst. Director (Tech.). As per relevant Recruitment Rules (Annexure 1) the post of Asst. Director (Tech.) is to be filled ~~■■■■■~~

by promotion failing which by transfer on deputation. Col. 12 provides (a) 50% of posts of Asst. Director (Technical) are to be filled by promotion of directly recruited Technical officers with five years regular service in the grade on the basis of seniority-cum-fitness, while (b) provides 50% posts to be filled by promotion of Asst. Technical Officers in I.B. (including those promoted to the grade of Technical Officers) with 8 years regular service in the grade on the basis of seniority-cum-merit. Note 1 below Col. 12(b) provides that the quota above will be with reference to the posts while Notes 2 and 3 below Note 1 makes clear the manner in which the name of Technical Officers and Asst. Technical Officers will be arranged in their respective quotas.

3. Applicants contend that the Recruitment Rules give equal treatment to unequal in the matter of promotion, even though Tech. Officers are Group A posts (Rs.2200-4000) while Asst. Tech. Officers are Group B posts (Rs.2000-3500) and the former ~~with~~ <sup>with</sup> the ACRs of the latter, besides supervising their work, and discharging more onerous duties responsibilities. They also contend that A.T.Os promoted as T.Os <sup>even</sup> for a very short while would steal a march over them as per Col. 12(b).

4. We have heard Shri Behera for the applicants, Shri R.V.Sinha for official respondents and Shri M. Chandrashekhar along with Shri Raval for the private respondents.

5. Shri Chandrashekhar has in our view correctly pointed out that the impugned Recruitment Rules which have been framed under Article 309 of the Constitution prescribed separate quotas for T.Os and ATOs. Each is promoted within his own quota against posts earmarked for them and the eligibility criteria prescribed is also different. Separate DPCs are convened for this purpose, and while for T.Os the procedure prescribed is seniority-cum-fitness, for ATOs it is seniority-cum-merit. It has also been pointed out to us that after the coming into force of the Recruitment Rules on 26.2.88 ATOs are no longer being promoted as T.Os.

6. We have given our careful consideration to the matter. In view of the fact that quotas for T.Os and ATOs are entirely different and separate, with different eligibility qualifications and selection procedure, it cannot be said that equals are being treated unequally. T.Os and ATOs are competing within their own quotas which is entirely reasonable and non-discriminatory and not against each other. Moreover applicants' apprehensions that ATOs promoted as T.Os with very short service is also unfounded as applicants were all recruited between 1990 and 1992, while

promotions from ATOs to TO ceased after 26.2.88.

7. In the light of the above the O.A. warrants no interference and the judgments cited by Shri Behera namely Y. Apto Vs. UOI ATR 1992 (2) CAT 322 and T. Shambhal Vs. UOI 1994 (Suppl.3) SCC 340, wherein the facts and circumstances were entirely different, are distinguishable, and do not advance the applicants' case.

8. Respondents do not deny that the Fifth Pay Commission has recommended that the posts of ATOs should be filled up 100% by promotion from amongst T.Os but it is well settled that till such time as those recommendations are implemented by respondents and the relevant Recruitment Rules are amended to that effect the posts of A.D (Tech.) will have to be filled up on the basis of the Recruitment Rules in existence.

9. in view of the above the O.A. is dismissed. No costs.

*Lakshmi Swaminathan*

(Mrs. LAKSHMI SWAMINATHAN)  
Member (J)

/GK/

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(S.R. ADIGE)  
Vice Chairman (A)