

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

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O.A./~~T.A.~~ No 1380 of 1997

Decided on: 21/4/98

R.K. Maheshwari & Ors... Applicant(s)

(By Shri B.T. Kaul Advocate)

Versus

U.O.I. & Others Respondent(s)


(By Shri S.M. Arif Advocate)

CORAM:

THE HON'BLE ~~SIXX~~ MRS. LAKSHMI SWAMINATHAN, MEMBER (J)

THE HON'BLE SHRI K. MUTHUKUMAR, MEMBER (A)

1. Whether to be referred to the Reporter or not? Yes
2. Whether to be circulated to the other Benches of the Tribunal? R


(K. MUTHUKUMAR)
MEMBER (A)

(18)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

...
OA.No.1380 of 1997

New Delhi, this 21st day of April, 1998

HON'BLE SMT. LAKSHMI SWAMINATHAN, MEMBER (J)
HON'BLE SHRI K. MUTHUKUMAR, MEMBER (A)

1. R.K. Maheswari
S/o Shri R.C. Maheswari
Assistant Engineer
Bareilly Cantonment Board
Bareilly (U.P.)
 2. Gyan Prakash Pandey
S/o Shri S.P. Pandey
Assistant Engineer
Lucknow Cantonment Board
Lucknow (U.P.)
 3. Neeraj Kumar
S/o Shri R.P. Jain
Assistant Engineer
Kanpur Cantonment Board
Kanpur (U.P.)
 4. M.K. Chowksi
S/o Shri S.K. Chowksi
Assistant Engineer
Jhansi Cantonment Board
Jhansi (U.P.)
 5. Virender Sethi
S/o Late A.P. Sethi
Assistant Engineer
Delhi Cantonment Board
New Delhi.
 6. Dr S.P. Bansal
S/o Shri Lakshmi Chand Bansal
Bareilly Cantonment Board
Bareilly (U.P.)
- ... Applicants

By Advocate: Shri B.T. Kaul

versus

1. Union of India, through
Secretary
Ministry of Defence
South Block
New Delhi.
 2. The Director General
Defence Estates
Ministry of Defence
R.K. Puram
New Delhi.
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- 3. The Union Public Service Commission, through Secretary
Dholpur House
Shah Jahan Road
New Delhi.
- 4. Bareilly Cantonment Board
Through the President
Bareilly Cantonment
Bareilly (U.P.).
- 5. Lucknow Cantonment Board
Through the President
Lucknow Cantonment Board
Lucknow (U.P.).
- 6. Kanpur Cantonment Board
Through the President
Kanpur Cantonment
Kanpur (U.P.).
- 7. Jhansi Cantonment Board
Through the President
Thansi Cantonment
Jhansi (U.P.).
- 8. Delhi Cantonment Board
Through the President
Delhi Cantonment
New Delhi. ... Respondents

By Advocate: Shri S.M. Arif

O R D E R

Shri K. Muthukumar, M(A)

Six applicants before us of whom five are Assistant Engineers and one is a medical Doctor in Cantonment Board are aggrieved that The Defence Estates Service (Cantonment Executive Officer)(Group 'B') Recruitment Rules, 1987, are arbitrary and discriminatory inasmuch as they provide for minimum eligibility condition of twenty years of regular service as employees of Cantonment Boards for taking Limited Departmental Examination for appointment through transfer to the post of Cantonment Executive Officer (CEO for short) Group 'B' in the Defence Estates Service (DES for short) Group 'A'

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without taking into account the difference in educational qualifications and the pay scales of the employees of the Cantonment Boards which should be the main criteria for recruitment as are being taken into account in different departments of the Government of India. They accordingly pray that column-11 of the Schedule to the aforesaid Rules in so far as it envisages minimum length of twenty years of service should be quashed and they also pray for a direction to the respondents to make proper classification among employees of Cantonment Boards on the basis of intelligible differential of educational qualification and/or pay scales as the basis for Limited Departmental Examination for appointment by transfer/promotion to the DES(CEO) Group 'B' post. They also pray for direction to the respondents for initiation of the process of consultation with UPSC on relaxation of minimum eligibility condition of twenty years of regular service for these class of applicants and also similarly situated employees of Cantonment Boards and also for a direction to create promotional avenues for the highly qualified employees of Cantonment Boards like the employees for direct recruitment to group of post of the Indian Defence Estates Service. The main grievance of the applicants seem to be the proper lack of opportunities for promotion in the Cantonment Boards Service.

2. The Limited Departmental Examination for transfer on deputation to the post of CEO(Group 'B') in

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the DES prescribes minimum requirement of twenty years of regular service in the Cantonment Board. Thus according to the applicants even in this twenty years of regular service in the Cantonment Board, there are no promotional avenues and for the only opportunity to be considered for Group 'B' post under the DES, the Rules provide for a minimum requirement of twenty years of service. Though the applicants are Bachelors in Engineering and Medicine respectively, the Recruitment Rules have totally ignored their high qualifications and merely provide a minimum requirement of twenty years of service for competing in Limited Departmental Examination, the only avenue by which they could compete for Group 'B' posts in the DES under the recruitment Rules. This, according to them, is very harsh and totally ignores the reality of their qualifications and it also blocks avenues of promotion for a long number of years in the Cantonment Boards Service. By this provision they feel that their academic qualifications have been practically of no avail. They also state that like in many other services, there should be some provision for promotion to Group 'A' post under the DES. The applicants assert that by virtue of their qualifications and field experience in the Cantonment Board they are suited to the higher post of CEO in Group 'B' as well as other Group 'A' post in the DES. They also allege that in other departments, officers holding analogous posts are considered for Group 'A' posts with five years of

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service whereas in their case a long number of twenty years of service is prescribed even for competing in Departmental Examination which, they allege, is discriminatory.

3. In the counter reply the respondents have raised a preliminary objection that this case is not maintainable as the applicants are all employees of the Cantonment Boards and they do not hold post under the Central Government. They, therefore, state that this application should be dismissed on account of lack of jurisdiction. It is stated that the applicants are employees of the Cantonment Boards which are local bodies and are governed by Cantonment Fund Servant Rules, 1937 framed under the Cantonments Act, 1924. It is also stated that the promotional avenues of the Cantonment employees are governed by rules applicable in this behalf and every Board has its own sanctioned strength including Engineers, Doctors, Teachers etc. It is also asserted that many Boards have posts above the level of Junior Engineers/Assistant Engineers and, therefore, the respondents have stated that it is not the duty of the Central Government to provide for promotion to such employees. In the circumstances, the respondents aver that the applicants have no jurisdiction to challenge the Recruitment Rules relating to DES Group 'B' post and even under the Recruitment Rules, provision is made only for appointment on transfer basis on deputation to such employees of those Cantonment Boards who fulfil the requisite criteria for availing

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themselves of the benefit in the Limited Departmental Examination. It is not as though by availing of the Limited Departmental Examination, they are eligible for direct appointment under the DES. The respondents have also affirmed that there is no relaxation whatsoever to these Rules either on the ground that some applicants were holding supervisory posts or were highly qualified. They draw a reference to the judgment of the Tribunal in OA.No.1053/97 wherein the staff association claimed for equal status with Cantonment Boards employees and sought a direction to permit their members for appearing in the Limited Departmental Examination meant for appointment of CEO Group 'A' in relaxation and modification of Recruitment Rules and the Tribunal held that it does not have the jurisdiction to direct amendment or relaxation in the Recruitment Rules.

4. We have heard the learned counsel for the parties and perused the pleadings and other records placed before us.

5. From the facts of the facts of the case, it is clear that the applicants are not holders of civil posts in Central Government but are employees of the Cantonment Boards set up under the Cantonments Act of 1924. The DES(CEO)(Group 'B') Recruitment Rules, 1987 provides for promotion to the post of CEO in Group 'B'. These posts are regularly constituted civil posts under the Defence Estates Organisation of the Ministry of Defence. They are a part of the duly constituted DES. Similar Rules exist for Group 'A' post in the

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same Service. For the Group 'B' posts of CEO the method of recruitment by way of promotion are: 45% of the vacancies from among the employees of DES and 45% of vacancies from employees of the Cantonment Boards drawing basic pay of not less than Rs.1400/- per month and who have passed Matriculation Examination from a recognised University/Board/School or equivalent and have rendered twenty years total regular service to the Cantonment Board and the the balance 10% of the vacancies from Ex-servicemen of the ranks of Subedar Major/Subedar or equivalent of Armed Forces who are still in service but are about to retire or transferred to the reserve within a year. It is also provided that UPSC shall be consulted for appointment of officers from the Cantonment Board/Ex-servicemen on transfer basis. In the promotional quota of 45%, 10% is from the Office Superintendent Grade-I, in the Indian Defence Estates Service with three years regular service in the Grade and 35% by officers in the grade of Office Superintendent Grade-I, Stenographer Grade-I and Junior Translator who have rendered twenty years of total regular service are eligible to be considered. The learned counsel for the applicants strongly argued that in every government department minimum eligibility condition of service is inversely proportional to the educational qualifications and scales of pay and there should be no discrimination in the matter of length of service of persons of equivalent status or pay scale. To illustrate this, he read out examples as shown in Annexure A-IV. He pointed out that while in the case of promotion of officers of Indian Defence Service

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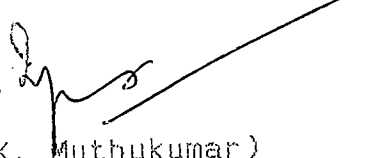
only three years' regular service in the Grade is provided but employees like the applicants who are in a higher grade of Assistant Engineers/Medical Officers, the Rules provide for twenty years total regular service irrespective of the pay scales in which they are employed. This, according to him, was not a very fair treatment given to the highly qualified professionals of the Cantonment Boards. He also submits that in the absence of proper promotional avenues in the various Cantonment Boards the least that the department could do is to provide for relaxation in respect of Cantonment employees who are already serving in higher scales and who are highly qualified professionals who could fulfil their aspirations to join Group 'A' and Group 'B' posts in the DES.


6. We have given careful consideration to the arguments of the learned counsel for the parties. It is an admitted position that the applicants are Cantonment Board employees and aspirants to join the Central civil posts by the method of participating in the Limited Departmental Examination provided under the Rules for them. To this extent they are competing for civil posts under the Central Government although they are not at present employed in the Central Government but are employees of Cantonment Boards which are stated to be local bodies. Therefore, to hold that this application is not maintainable on grounds of jurisdiction will not be correct. But we are inclined to agree with the learned counsel for the respondents to the extent that the reliefs claimed in

this application seeking a direction for amendment of the rules by providing for proper classification on the basis of educational qualifications, pay scales and minimum length of service inversely proportional to the higher qualifications are all not matters within the jurisdiction of this Tribunal. We are in respectful agreement with the orders passed in OA.1053/97. The learned counsel for the applicants argued that there is a provision for relaxation of rules and the respondents can easily relax the rules which provide for twenty years of regular service to enable the employees of Cantonment Board to avail themselves of the Limited Departmental Examination facility. We are unable to appreciate this argument. The Tribunal cannot direct the respondents to relax any of the provision of the rules for a particular section of employees in one way or the other. It is stated that the applicants are highly qualified Engineers and Medical Doctor. It is also stated that within the Cantonment Boards themselves there are promotional opportunities for higher promotion to the level of Junior Engineers/Assistant Engineers etc. Therefore, to say that there are no promotional avenues for the applicants in the respective Cantonment Boards, is not correct and even if the opportunities are not adequate, it is for the applicants to approach the appropriate forum in this behalf and this Tribunal has no jurisdiction to give any direction for providing promotional avenues in the Cantonment Boards for these applicants. From the scheme of appointment to the Group 'B' post in the DES by promotion or by transfer through the Limited

Departmental Examination, it appears to us that these rules provides for employees mostly in lower level to qualify themselves for these promotions or transfer by the Limited Departmental Examination. The applicants were in the initial pay scale of Rs.2200-4000 as Assistant Engineers/Medical Officer and are presently in the pay scale of Rs.3000-4500 except applicant No.5 who is in the scale of Rs.2000-3500 as seen from the Annexure A-3.

7. In the light of the above facts, we are of the considered view that the applicants cannot have any grievance against the impugned rules which provide for promotional avenues for such of those employees from lower levels whose pay does not exceed Rs.1400/-. In the light of the above, we are of the considered view that this application has no merit and is accordingly dismissed. No order as to costs.


 (K. Muthukumar)
 Member (A)


 (Smt. Lakshmi Swaminathan) 21/4
 Member (J)