

(15)

CAT/7/11

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI**

O.A. No. 25/97
T.A. No.

199

DATE OF DECISION 21-8-97

Shri R.K. Sharma & Ors **Petitioner**

Shri S.S. Dass **Advocate for the Petitioner(s)**

Versus
UOI & Ors

Respondent

Shri R.P. Aggarwal

Advocate for the Respondent(s)

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The Hon'ble Smt. Lakshmi Swaminathan, Member (J)

The Hon'ble Shri R.K. Ahooja, Member (A)

1. To be referred to the Reporter or not? *yes*

2. Whether it needs to be circulated to other Benches of the Tribunal? *X*

L Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)

Central Administrative Tribunal
Principal Bench

O.A. 25/97

New Delhi this the 21 th day of August, 1997

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

Hon'ble Shri R.K. Ahooja, Member(A).

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1. Shri R.K. Sharma,
Steno Grade-II.
 2. Smt. Neelam Sardana,
Steno Grade-II.
 3. Shri S.N. Yadav,
Assistant.
 4. Shri Ram Niwas,
Assistant.
 5. Shri Krishan Lal,
Assistant.
- ... Applicants.

(All in Dte. of Revenue Intelligence,
I.P. Estate, New Delhi)

By Advocate Shri S.S. Dass.

Versus

1. Union of India, through
The Secretary,
Ministry of Finance,
Department of Revenue,
North Block,
New Delhi.
 2. Chairman,
Central Board of Excise & Customs,
North Block,
New Delhi.
 3. The Director General,
Dte. of Revenue Intelligence,
I.P. Estate, I.P. Bhawan,
New Delhi.
- ... Respondents.

By Advocate Shri R.P. Aggarwal.

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

The applicants who are working as
Stenographers Grade-II and Assistants with the
respondents are aggrieved by the circular dated

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15.10.1996 and the amendment of the Directorate of Revenue Intelligence (Class-III Non-ministerial Posts) Recruitment rules, 1974 (hereinafter referred to as 'the 1974 Recruitment Rules') by notification dated 11.8.1990. By this circular, only UDCs and Stenographers Grade-III, who have rendered 5 years regular service in the Directorate are eligible to appear in the departmental qualifying examination for appointment to the post of Intelligence Officer.

2. The brief facts of the case are that the applicants had appeared in the departmental examination in July, 1989 but unfortunately they had failed. At that time, Stenographers Grade-II were allowed to appear in the examination under the 1974 Recruitment Rules for appointment to the post of Intelligence Officers. By notification dated 11.8.1990, this was now restricted to UDCs and Stenographers Grade-III who have put in 5 years regular service. In accordance with the Recruitment Rules, as amended in 1990, the circular dated 15.10.1996 had been issued. The applicants have submitted that the circular is contrary to law. This contention, however, cannot be accepted as the circular is as per the amendments in the rules carried out by notification dated 11.8.1990. The applicants have also challenged the amendments in the rules by notification dated 11.8.1990, on the grounds that it is arbitrary, malafide and without any merits. They have submitted that they are Stenographers Grade-II and Assistants and senior to UDCs and Stenographers Grade-III. They have submitted that while the junior officers, who are Stenographers Grade-III/UDCs in the pay scale of Rs.1200-2040, are

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allowed to appear in the departmental qualifying examination for appointment to the post of Intelligence Officers, Stenographers Grade-II/Assistants, who are in the pay scale of Rs.1400-2600, are barred from taking the examination. The Intelligence Officers are in the grade of Rs.1640-2900. By this amendment they have submitted that persons who are junior to them will steal a march over them if successful in the examination by getting a double jump. They have submitted that since their grade is also lower than that of Intelligence Officers, there is no reason why they should be excluded from taking the examination. It was, therefore, contended by Shri Dass, learned counsel for the applicants, that the amendment in the Recruitment Rules by notification dated 11.8.1990 is discriminatory and in violation of Article 14 of the Constitution.

3. The Tribunal by order dated 27.3.1997 has directed the respondents to provisionally permit the applicants to appear in the aforesaid qualifying examination. We have been informed that the results have, however, not yet been declared.

4. We have seen the reply filed by the respondents and heard Shri R.P. Aggarwal, learned counsel. The respondents have submitted that prior to the 4th Pay Commission recommendations, there were two categories of posts in the 1974 Recruitment Rules, namely, Examiner of Customs etc. in the Selection Grade (Rs.550-900) and ⁱⁿ the Ordinary Grade (Rs.425-800). After the 4th Pay Commission recommendations, both these grades were merged and redesignated as Intelligence

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Officers. By the amendment in the Recruitment Rules dated 11.8.1990, the posts of Intelligence Officers were to be filled from among UDCs/Stenographers Grade-III who qualify the examination. They have, therefore, stated that as per the amended rules, the applicants, who are Stenographers Grade-II/Assistants are not eligible.

5. It is seen from the reply filed by the respondents that they have given no reasons as to why the Stenographers Grade-II/Assistants who were earlier eligible for taking the departmental qualifying examination to the post of Intelligence Officers have been excluded by the notification dated 11.8.1990. Admittedly, both Stenographers Grade-II and Grade-III as well as UDCs and Assistants are in lower pay scales than that of Intelligence Officers. By excluding the Stenographers Grade-II and Assistants from taking the examination, they are deprived of a chance for promotion through the departmental qualifying examination. We find merit in the submissions made by the learned counsel for the applicants that such exclusion is arbitrary as persons junior to them would get a double jump if they qualify in the departmental examination. No satisfactory explanation has been given by the respondents to exclude the applicants in the notification dated 11.8.1990. We note from the letter dated 7.11.1996 that the respondents have looked at the representation given by the applicants sympathetically and recommended their inclusion for taking the departmental qualifying examination as their chances of promotions are otherwise less. We, therefore, find the notification dated 11.8.1990 excluding Stenographers

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Grade-II/Assistants from being considered eligible for taking the departmental qualifying examination arbitrary and discriminatory and violative of the provisions of Article 14 of the Constituion. This application is, therefore, liable to succeed.

6. The applicants have already been allowed to appear in the aforesaid examination by order dated 27.3.1997. In view of the above, we declare that they were eligible for appearing in the aforesaid examination for promotion to the post of Intelligence Officers. Their results shall be declared and if the applicants are qualified, they shall be entitled to consequential benefits in accordance with the rules.

O.A. allowed. No order as to costs.

R.K. Ahooja
(R.K. Ahooja)
Member (A)

"SRD"

Lakshmi Swaminathan
(Smt Lakshmi Swaminathan)
Member (J)