

(W)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.2801/1997

New Delhi, this 24th day of July, 2000

Hon'ble Shri Justice V.Rajagopala Reddy, VC(J)
Hon'ble Smt. Shanta Shastry Member(A)

1. Government of India Photolitho Press
Karmachari Sangh, Faridabad
Through its Secretary
L.N.Chakrawarty
S/o Shri A.M.Chakrawarti
2. Bharat Bhushan (President)
S/o Sh. G.L. Vaid
Government of India Photolitho Press
Faridabad. ... Applicants

(By Shri R.K. Shukla, Advocate)

versus

1. Union of India, through
Secretary
Ministry of Urban Affairs and Employment
Nirman Bhawan
New Delhi.
2. The Director
Directorate of Printing Press 'B' Wing
Nirman Bhawan
New Delhi. ... Respondents

(By Shri Gajendra Giri, Advocate)

ORDER(oral)

By Smt. Shanta Shastry

The applicants are Employees Association of Government of India Photolitho Press as well as individuals working as Offset Machineman and Cameraman in the Photolitho Press at Faridabad. According to the Ministry of Urban Affairs and Employment Directorate of Printing Group 'A' and Group 'B' posts Recruitment Rules prior to 1996, for promotion to the post of Technical Officer (Photolitho), Offset Machineman(Special Grade), Film Setter Operator or Artist Retoucher with 5 years regular service in the grade were eligible. Besides all Offset Machinemen Grade-I or Cameramen with 8 years

R2

service in the grade were also eligible as per "failing which" clause. The recruitment rules were amended on 10.1.1997 effective from 1996. As per the new recruitment rules the promotion channel was changed slightly with the result only Offset Machineman (Special Grade), Artist Retoucher and Senior Artist with 4 years regular service in the grade have been shown as the feeder grades for promotion to the post of Technical Officer (Photolitho). Offset Machinemen Grade 1 and Cameramen who were earlier eligible have been omitted from the feeder grades. The Applicant Association and the individual applicants are aggrieved by this amended recruitment rules as their promotion prospects have been affected and reduced by the said amended recruitment rules. The applicants have, therefore, sought to declare the amended rules of 1996 as illegal and unconstitutional and for a direction to the respondents to reconsider the same whereby the promotion prospects of Offset Machinemen Grade-I and Cameramen are retained and not to deprive them of promotion.

2. The learned counsel for the respondents submits that the recruitment rules had to be amended to provide an opportunity to the Senior Artists who were not included in the earlier recruitment rules of 1988. There are 27 of them. Also enough eligible officers are available from the base cadre and therefore it is not necessary to include others like Offset Machineman Grade-I belonging to the lower cadres. These recruitment rules were amended in consultation with the UPSC and the Department

h

(13)

of Personnel & Training. The "failing which" clause which was there earlier in the 1988 recruitment rules has now been deleted as there are adequate number of eligible officers in the base cadre itself. According to the respondents the amended recruitment rules have not deprived any person's right to promotion. The respondents have further submitted that in view of representations made by the Applicant Association and the individuals, the respondents have sought a clarification from the UPSC as to whether to retain the earlier 'failing which' clause so as to keep the promotion prospects of the applicants alive. Even otherwise earlier also the Offset Machinemen Grade-I were not directly eligible. It is only if there was failure to get adequate number of Offset Machinemen (Special Grade-I), then only the Offset Machinemen Grade 1 were to be considered for promotion. Since the base has now been widened to include Senior Artists in the feeder grade there is no need to include Machinemen Grade 1 who are in a lower pay scale than that of the Senior Artist or Artist Retoucher or the Offset Machinemen (Special Grade).

3. The learned counsel for the applicants has vehemently pleaded that by the amendment of the rules, the applicants have been totally deprived of promotional avenues because there are only three posts of Offset Machinemen (Special Grade) whereas there are 197 posts of Offset Machinemen Grade 1. Thus the promotion posts are disproportionate.

4. We have heard both the learned counsel for the applicants and the respondents and have also perused the pleadings.

5. We feel that while the respondents may be justified in including the category of Senior Artists in the feeder channel for promotion to the post of Technical Officer at the same time deleting the Offset Machinemen Grade I and Cameramen is wholly unjustified. Their being not considered for promotion merely on the ground that Senior Artists needed to be included does not appeal to reason at all. Even though the pay scale of Offset Machineman Grade-I and Cameraman is lower than that of Offset Machineman(Special Grade) adequate care had been taken to stipulate 8 years service in the grade for the Offset Machineman Grade-I so as to bring them on par with those in the higher scale. Also Offset Machineman Grade-I were to be considered for promotion only in the event of non availability of eligible persons from the higher grades. According to us, the amended recruitment rules deleting the applicants' category from the eligibility zone of consideration are violative of the Constitution. The applicants case merits consideration.

6. The learned counsel for the respondents informs us that a proposal has been sent to the UPSC seeking clarification as to whether the post of Offset Machinemen Grade I and Cameramen should be retained as per the earlier recruitment rules in the feeder category

15

for promotion to the post of Technical Officer. We are of the considered view that the applicants should not be denied the benefit which was available to them prior to the amendment to the recruitment rules in 1996. We direct the respondents to pursue the matter with UPSC to retain the earlier provision and to reconsider including the Offset Machinemen Grade I and Cameramen for promotion to the post of Technical Officer as before. This exercise be carried out within a period of three months. No costs.

Shanta J-

(Smt. Shanta Shastry)
Member(A)

dbc

Rajagopal Reddy

(V. Rajagopal Reddy)
Vice Chairman(J)