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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

RA No. 136/97
with
MA No. 1280/97
MA No. 1281/97
MA No. 1104/97 in
OA No. 426/97

New Delhi, this the 5th day of June, 1998

HON'BLE SHRI T.N. BHAT, MEMBER (J)
HON'BLE SHRI S.P. BISWAS, MEMBER (A)

In the matter of:

Smt. Sharda Jain,
Superintendent (Legal),
Legislative Department,
H.No. 709, Gali No. 21,
Joshi Road, Karol Bagh,
Delhi.

..... Review Applicant

(By Advocate: Ms. Meera Chhibber)

Vs.

1. Braham Prakash Nahar (Librarian),
Official Languages Wing,
Legislative Department,
Ministry of Law & Justice,
Indian Law Institute Building,
Bhagwan Das Road,
New Delhi.
(By Advocate: Sh. R. Venkatramni)

2. Union of India, through
Secretary,
Ministry of Law & Justice,
Legislative Deptt.,
Shastri Bhawan,
New Delhi.

..... Respondents in RA

(By Advocate: Sh. K.C.D. Gangwani)

O R D E R

Hon'ble Shri T.N. Bhat, Member (J)

This common order disposes of the RA filed by one Smt. Sharda Jain against the judgment order of the Tribunal passed in OA-426/97 on 13.3.97 as also the MA-1104/97 filed by the respondents in the OA seeking identical relief. The OA was filed by Sh. Braham Prakash Nahar, respondent No.1 herein seeking promotion from the post of Librarian (Hindi) in the Official Language Wing of

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the Legislative Department of the Ministry of Law, Justice and Company Affairs to the post of Assistant Legislative Counsel which is said to be a duty post. The review applicant was not a party to the OA but she claims in the RA that she is adversely affected by the judgment of the Tribunal and accordingly seeks review of the judgment.

2. The respondents in the OA, who are the petitioners in MA-1104/97 also seek a similar relief in the said MA, as, according to them, while disposing of the OA by the judgment (supra) the Tribunal had granted them the liberty to seek modification of the judgment order by filing an MA.

3. The applicant in the OA, namely, Sh. D.P.Nahar had sought the relief of consideration of his case for promotion to the post of Assistant Legislative Counsel on the ground that under the relevant rules he was eligible. According to him, he was working as Librarian Grade-I in the Legislative Department and according to the rules governing the Indian Legal Service, Librarian Grade-I was eligible for promotion to the post of Assistant Legislative Counsel. It was further averred in the OA that at the time of the applicant's appointment as Librarian (Hindi) in the Legislative Department, 5 years experience in a legal or reference library was one of the essential qualifications which has, however, later been reduced to 3 years experience. A person working as "Librarian Grade-I" is eligible for promotion to the post of Assistant Legislative Counsel and for entry in service as "Librarian Grade-I" also the same qualification viz. 5

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years experience is required apart from a Degree in Law and Diploma in Library Science. The applicant in the OA accordingly claimed to be eligible, though he admitted that the prevalent practice in the Department was that only those persons who are working in the Legal Affairs Department of the Ministry of Law, Justice and Company Affairs were being promoted.

4. It appears that the respondents did not appear on the first date of hearing fixed after issuance of notice on the OA, that is, on 11.3.97. The matter was on that day adjourned to 13.3.97 on which date again none appeared for the respondents. After hearing the learned counsel for applicant in the OA the OA was disposed of by an oral order dictated in the open court on 13.3.97. The following directions were given while disposing the OA.

"Since the claim of the petitioner is only to be considered against the post of Assistant Legislative Counsel in the scale of Rs.3000-4500 and it is also shown that he is available and eligible, and under the common rules of Indian Legal Service, the post he is holding has been shown to be the feeder post, we see no reason, not to direct the respondents to consider the case of the petitioner as and when the selection process to the post of Assistant Legislative Counsel is initiated in respondent's department.

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"With these observations and directions this OA is disposed of. In case the respondents find that any modification to this order is required they are free to approach this court through an Misc. application. There shall be no order as to costs."

5. Since the judgment order itself gave the respondents in the OA the liberty to file an MA seeking modification of the order, the respondents have filed MA No. 1104/97.

6. As already stated, Smt. Sharda Jain was not a party in the OA. However, she filed this RA as, according to her, she was an affected party. It may be mentioned that the Review Applicant is working as Superintendent (Legal) in the Legislative Wing and is due for promotion from 1995 onwards and according to her the applicant in this OA belongs to the Official Language Wing and has nothing to do with the Legislative Wing or the Indian Legal Service.

7. We have heard at length the learned counsel for the review applicant and the learned counsel for both the respondents, namely, Union of India and Sh. Braham Prakash Nahar, the applicant in the OA.

8. It is not disputed that the Legislative Department and the Department of the Legal Affairs are two separate departments working under the Ministry of Law and

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Justice. The Librarians in the Official Languages Wing of the Legislative Department have a different set of rules governing their service from those governing the service conditions of Librarian Grade I working in the Legal Affairs Department. According to the rules governing recruitment to the Indian Legal Service, only those persons who are working as Superintendent (Legal) or Librarian Grade I or Confidential Superintendent, are eligible for promotion to the post of Assistant Legislative Counsel which is a Group IV post, the lowest post in the Indian Legal Service. A copy of the rules governing the recruitment and other conditions of service of the officials in the Legislative Department (Official Language Wing) has been annexed by the applicant with his OA as also by the review applicant with her RA. A perusal of these rules clearly reveals that there is no post of "Librarian Grade I" in the service to which the applicant belongs. The only post of Librarian is that of "Librarian (Hindi Branch)". Therefore, manifestly, the claim of the applicant in the OA seeking promotion to the post of Legislative Counsel is unfounded and inadmissible. On the other hand, the rules governing recruitment and conditions of service of Librarian Grade I, a post specifically mentioned in the relevant rules, in the Department of Legal Affairs are altogether different. These rules are called the Ministry of Law and Justice (Department of Legal Affairs) Librarian (Grade I) Recruitment Rules 1988. Under these rules the educational qualifications prescribed for Librarian Grade I are:

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- (i) Degree in Law from the recognised university.
- (ii) Degree/Diploma in Library Science.
- (iii) 5 years experience of work in a legal/reference library.
- (iv) Knowledge of colon classification system.

9. It is true that for recruitment to the post of Librarian (Hindi Branch) also similar qualifications are prescribed, but it is equally true that the service in the Official Languages Wing of the Legislative Department is an altogether different service. There is no post of Librarian Grade I in that service.

10. We further notice that there is a separate channel of promotion under the relevant rules governing the conditions of service of the applicant and the higher posts under those rules are also similar to some of the posts under the Indian Legal Service, such as Additional Legislative Counsel (Hindi Branch), Joint Secretary and Legislative Counsel (Hindi Branch), Additional Legislative Counsel (Languages Branch), Deputy Legislative Counsel (Regional Languages Branch) and Assistant Legislative Counsel (Hindi Branch). The applicant in the OA seems to be right in stating that under the relevant rules applicable to him he has no avenues of promotion open to him, as a person holding the post of Librarian (Hindi) is not eligible to seek promotion to any of the higher posts under those rules. But that would not by itself be a

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sufficient reason for holding him eligible for promotion to an entirely alien service. We are convinced that only those persons who are working as Grade I Librarians in the Legal Affairs Department are eligible for promotion to the post of Assistant Legislative Counsel in Indian Legal Service apart from Confidential Superintendent in the Legislative Department and Superintendent (Legal).

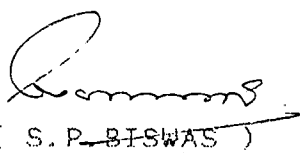
11. It appears that the applicant in the OA had placed reliance upon some note in the Ministry of Law & Justice and Company Affairs dated 25.8.94 which has been annexed as Annexure-VIII to the OA. This note appears to have been put up by one Sh. D.Bhardwaj, S.O. in the Legal Affairs Department in the Ministry of Law, Justice and Company Affairs and was to be put up before one Sh. Surender Kumar, S.O. in the Legislative Department. In this note Sh. Bhardwaj appears to have expressed the view that Librarian (Grade I) in the Official Language Wing can be deemed to be included in the Third Schedule of Indian Legal Service Rules provided the post requires the same educational qualifications and experience for recruitment as the post of Librarian Grade I in the Department of Legal Affairs. However, no order or instruction issued by the Competent Authority has been produced before us based upon the aforesaid note nor has any amendment to the relevant rules based thereon been brought to our notice.

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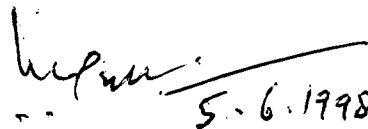
12. For the foregoing reasons we are convinced that there is an error apparent on the face of the record so far as the judgment order dated 13.3.97 is concerned and on this score the aforesaid judgment is liable to be set aside on review of the same.

13. In the result, we allow both the RA-136/97 as well as MA-1104/97. MAs 1280 and 1281/97 also stand disposed of accordingly.



(S.P. BISWAS)

Member (A)



(T.N. BHAT)

Member (J)

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