

10

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

O.A. No. 1298/94

New Delhi this the 30th Day of August, 1999

Hon'ble Mr. Justice V.Rajagopala Reddy, Vice Chairman  
Hon'ble Mrs. Shanta Shastry, Member

Mahesh Chand Kukreti  
Son of Late Shri Deep Chand Kukreti,  
Asstt. Director,  
Forest Survey of India,  
Kaula Garh Road,  
Dehradun 248 195

.... Applicant

(By Advocate : Shri M.K. Bhardweaj, proxy counsel  
Shri VSR Krishna)

Versus

Union of India, Through:

1. The Secretary Govt. of India,  
Ministry of Environment and Forests,  
Prayavaran Bhawan,  
CGO Complex Lodhi Road,  
New Delhi-110 003.
2. The Director General,  
Indian Council of Forestry Research & Education  
P.O. New Forest,  
Dehradun - 248 006.
3. The Director,  
Forest Research Institute,  
P.O. New Forest,  
Dehradun - 248 006

(By Advocate: Shri N.S. Mehta)

O R D E R (Oral)

By Reddy, J.

Heard the counsel for the applicant and the respondents. The applicant was working as Console Operator in the National Forest Computer Centre, Forest Research Institute, Dehradun. It was a Central Government Department. The next post for promotion from the post of Console Operator is to the post of System Analyst (Programmer). The minimum period of service to complete the post of System Analyst was five years in the

.....

11

grade of Console Operator, as per the Recruitment Rules of 1992. The rules were amended in 1987 and as per the amended rules they came into force on 23.9.1987. The post of System Analyst has been abolished and was substituted as Scientist SC. The post of Scientist SC had to be filled by transfer on deputation or by direct recruitment. It is the grievance of the applicant that by amendment of the rules of 1987, the applicant was left without any promotional avenues and he will have to stagnate in the post of Console Operator. It is, therefore, contended by the learned counsel for the applicant that the amended rules which are framed under Article 309 of the Constitution of India are invalid. It is the case of the respondents that the applicant was selected as Computer Operator on 13.12.1982 as per the 1982 Recruitment Rules. The post of System Analyst was required to be filled up 50% by promotion from amongst Computer Operators with five years service in the grade, failing which by direct recruitment and 50% by direct recruitment. As a result of the changes brought about by the Central Government in personnel policies applicable to Central Government Scientific Department, a new Scheme of promotion known as "Flexible Complementing Scheme" was introduced in the Forest Research Institute and Colleges, Dehradun and in exercise of the powers conferred by the proviso to Article 309 of the Constitution, new rules called as the Department of Environment, Forests and Wildlife Scientific Group A posts Rules 1987 were notified on 23.9.1987. By virtue of these rules the posts of Systems Analyst were re-designated as Scientist SC and brought under the purview of these rules. Therefore, the post of System Analyst ceased to exist. It is also averred in the counter affidavit that the applicant

✓

(2)

became eligible for promotion to the post of System Analyst only in December 1987 as per the old recruitment rules of 1982. Since they have been superseded, the applicant cannot have any grievance with the new rules.

2. It is also averred in the counter affidavit that the Indian Council for Forestry Research and Education, Dehradun was converted from a Central Government Department into an autonomous organisation w.e.f. 1st June 1991 and all the posts borne on the strength of ICFRC stood transferred to the Society i.e. Autonomous Body w.e.f. that date. The services of the employees were placed on "Compulsory" deputation with Indian Council of Forestry Research and Education (ICFRE) Society. In the present case, as the applicant had exercised his option for reversion to the Central Government service only, the applicant has to be declared as "Surplus Officer" for re-deployment elsewhere. After the re-deployment the applicant was governed by the rules of recipient organisation. It is also stated that the applicant was declared as "Surplus Officer" and surrendered his name to the Surplus Cell for re-deployment elsewhere.

3. The learned counsel for the the respondents, therefore, contends that in view of the amended rules in 1987 even before the applicant acquired his eligibility to the post of System Analyst, the rules were changed and as per the amended rules, the post of System Analyst has been abolished and also in view of the fact that all the

VRB

(3)

posts have been transferred to ICFRC which has become an autonomous body, the applicant cannot seek promotion to the post of Scientific SC in the Government of India.

4. The above pleadings clearly show that in view of the amended rules the promotional posts of System Analyst have been abolished. The amended rules have come into force even prior to the applicant acquired eligibility for the promotional post. It is true that by virtue of the new rules, the applicant was deprived of all his promotional channel of System Analyst. But it should be remembered that in view of the conversion of the Department of ICFRE into an autonomous body all the posts borne in the Department of ICFRE have been transferred to the ICFRE (Society) w.e.f. 1991. Admittedly, the applicant has not opted for the service of the ICFRE, and remained in the service of the Government of India. Thus a situation has arisen where no suitable posts were found for the applicant in the Department since the Department itself was no more in existence. The applicant was shown as surplus and it was stated that he was re-deployed to other departments. Hence, the applicant cannot seek any relief nor any direction for his promotion to the post of Scientist SC. We are also of the view that the rules have been amended in view of the change brought out by the Central Government Scientific Department. The new Scheme called "Flexible Complementing Scheme" has been introduced and to cater to the posts borne in this Scheme, the rules have to be amended and the new rules were framed in 1987. It, therefore, cannot be said that the new rules have been framed malafide and only to deprive of the applicant

VBB

(A)

of his promotional chances. In the circumstances, we find no merit in the OA. The OA is, therefore, dismissed. No costs.

*Shanta Shastray*  
(Smt. Shanta Shastray)  
Member (A)

*Unnithan Reddy*  
(V. Rajagopala Reddy)  
Vice Chairman (J)

*Mittal.*