

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

(2)

Original Application No. 1604 of 1994

Date of decision : This the 21st day of July, 1999.

HON'BLE MR. JUSTICE D.N. BARUAH, VICE-CHAIRMAN.

HON'BLE SRI N. SAHU, ADMINISTRATIVE MEMBER.

1. V.K. Kapur,  
Junior Scientific Officer,  
Office of the Q.A.E (Navy)  
Resident of A41, Chandar Nagar,  
Janakpuri,  
New Delhi.
  2. K.L. Dua  
Junior Scientific Officer,  
Office of D.Q.A(WP)  
Resident of B-1/235, Paschim vihar  
New Delhi.
  3. K. Prasad Rao,  
Junior Scientific Officer  
Office of D.Q.A.(W.P)  
Resident of Sector IX Flat No. 678, R.K. Puram,  
New Delhi.
  4. S.L. Watwani  
Junior Scientific Officer  
Directorate of Standardisation, Min of Def  
Resident of B 2/61, Safdarjang Enclave  
New Delhi
  5. P.S. Wagmare  
Junior Scientific Officer  
SQAE (E), Min of Defence  
Resident of Sec NH 4, Type IV, 1206  
Faridabad 121002
  6. Gobind Ram  
Junior Scientific Officer  
DQA(N)  
Ministry of Defence  
Sec VIII, N-328, R.K. Puram  
New Delhi 110 022
  7. Ajit Singh  
Junior Scientific Officer  
Min of Defence, Sec XII, 1295, R.K. Puram  
New Delhi
- ...Applicants

By Advocate : None present for the applicants

-versus-

1. The Union of India  
Through : The Secretary,  
Ministry of Defence  
Department of Defence Production  
South Block  
New Delhi 110011

*Karavante*

Contd....

2. The Director General of Quality Assurances  
Ministry of Defence  
South Block,  
New Delhi-110 011



3. The Chairman  
Union Public Service Commission  
Dholpur House, Shajahan Road,  
New Delhi.

... Respondents

O R D E R (ORAL)

BY HON'BLE SRI N.SAHU, MEMBER(A).

The applicants in this O.A pray that the provisions of S.R.O. 264 be declared illegal and violative of Article 16 of the Constitution of India on the ground that it prescribes the qualification of degree in Engineering/Master's degree in science for promotion to the post of S.S.O. II. The grounds on which this relief is claimed is that this rule does not take into account JAOS diploma in Engineering. They rely on the instructions dated 18.3.1988 which provide for the periodical review of the Recruitment Rules. They also cite the instructions of the Ministry of Personnel to the effect that the prospects of the diploma holders cannot be restricted by imposing a bar on their promotions. The applicants alleged that the UPSC had failed to render proper and correct advice to the concerned administrative Ministries.

After notice the respondents submit that they have been conducting promotions on the basis of existing Defence Quality Assurance Service Rules, 1979 published vide SRO 264 of 06 October 1979 as amended from time to time. The rules prescribe that the post of SS0 II is required to be filled up from amongst Junior Scientific Officers having three years regular service in the grade and possessing a degree in BE/M.Sc. No doubt the demand of the Junior Scientific Officer to relax the educational qualification has been considered but the rules have not been amended so far. An administrative decision is not legally enforceable.

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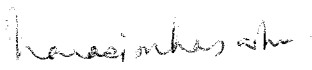
NA

Further, any proposed amendment can become enforceable only after it is fully enacted and published and unless it is mentioned otherwise it is effective only prospectively.

None appeared at the time of hearing. We have consulted the pleading on record. After going through the pleadings and after bestowing our anxious consideration to the same we are satisfied that there is no merit in this O.A. Departmental instructions cannot have any force unless the statutory provisions are suitably amended to give effect to the instructions. The assumption of the applicants to promote JSO on the basis of administrative decisions cannot be countenanced because the respondents have been following the existing rules in conducting promotions since several years.

In view of the detailed submissions made in this regard in the counter we are not in a position to agree with the plea taken by the applicants. We are also satisfied with the stand taken by the respondents is in conformity with the decision of the Hon'ble Supreme Court in the case of V.,V. Ranghaiah Vs. J. Srinivasa & Ors and State of Andhra Pradesh reported in AIR 1983 SC 852. it has been clearly laid down that vacancy which arose during the currency of old rules will be filled in accordance with old rules only and vacancies which arose during the currency of new rules will be filled in accordance with the new rules only.

In view of the above, we find no merit in this O.A. Accordingly the o.A. is dismissed. No order as to costs.

  
(N. SAHU)  
Member(A)

  
(D.N. BARUAH)  
Vice-Chairman

trd