

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1676/94

New Delhi this the 10th day of August, 1999.

Hon'ble Mr. Justice V. Rajagopala Reddy, Vice-Chairman(J)
Hon'ble Mr. R.K. Ahooja, Member (A)

1. Narayan Dutt
2. S.D. Sharma
3. Latif Mohd.
4. Bhim Sen
5. S.P. Sharma
6. Dinesh Kumar
7. D.K. Chanda
8. T.K. Banerjee
9. A.P. Chakravorty
10. Vijay Kumar

...Applicants

(All Storekeepers, Safdarjung Hospital,
New Delhi)

(By Advocate Mrs. Rachna Joshi Issar)

-Versus-

1. Union of India through
the Secretary,
Ministry of Health and
Family Welfare,
Nirman Bhawan,
New Delhi.
2. The Director General
of Health Services, Nirman Bhawan,
New Delhi.
3. The Medical Supdt.
Safdarjung Hospital,
New Delhi.
4. The Chief Administrative Officer,
Safdarjung Hospital,
New Delhi.
5. Smt. Pushpa, U.D.C.
Safdarjung Hospital,
New Delhi.
6. Sh. R.L. Bhatia, UDC,
Safdarjung Hospital,
New Delhi.
7. Shri M.M. Bhatia, UDC,
Safdarjung Hospital,
New Delhi.

8. Shri R.K. Jain, UDC,
Safdarjung Hospital,
New Delhi.

9. Shri R.S. Negi, UDC,
Safdarjung Hospital,
New Delhi.

...Respondents

(By Advocate Shri V.S.R. Krishna)

O R D E R

By Reddy, J.

The applicants were initially appointed as Lower Division Clerks and were promoted later as Storekeepers in the Safdarjung Hospital, New Delhi. The next promotion is to the posts of Storekeeper and UDC and the minimum requirement was three years of service in the grade of LDC. The said promotion is by way of seniority. The applicants submit that the duties of Storekeepers and UDCs are different and as per the applicants the duties of Storekeepers are more onerous and hence the promotion to Storekeeper was often rejected by the LDCs with the result there were far less Storekeepers than the UDCs. The next promotional posts in the hierarchy are the posts of Accountants/Head Clerks. The recruitment rules, 1973 provided a quota of 3:1 in favour of Storekeepers for promotion to the posts of Accountants/Head Clerks. The Rules were amended and a notification was published in the gazette dated 21.5.94 and the rules came into force with effect from the same date. By virtue of the amendment the quota in favour of the Storekeepers has been deleted for promotion to the post of Head Clerks/Accountants and promotions were made strictly in accordance with the seniority amongst the Storekeepers and UDCs. This OA

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is filed challenging the vires of the amendment made in the Recruitment Rules of 1973 for promotion to the posts of Head Clerks/Accountants.

2. It is argued that the amendment was arbitrary and not based upon any reasonable classification. As the Storekeepers are discharging more onerous duties they were provided the quota in the rules during the year 1977 and hence the removal of quota for promotion to the higher posts is arbitrary and discriminatory and violative of Articles 14 and 16 of the Constitution. It was also argued that this amendment was malafide as it was made only to benefit the UDCs as they have a say in the administration. The learned counsel for the respondents, however, submits that in view of the ratio between Storekeepers and UDCs for promotion to the higher posts, the UDCs preferred a representation to the administration for removal of the quota and after due consideration the rule was amended. It was pointed out that in view of the quota prevailing the junior Storekeepers used to jump over the senior UDCs in the matter of promotion. 3:1 ratio was inserted in the 1977 rules, as, at that time, the number of posts of UDC was less than the posts of Storekeepers. Since the strength of UDCs was increased it was thought that the quota in favour of the Storekeepers was found to the disadvantage of the UDCs.

3. We have carefully examined the record and the rival contentions. The common stock for promotion to Storekeepers and UDCs is the posts of LDC. It is not the case of the applicants that any training was given

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to the LDCs before they were promoted to the posts of Storekeepers. There is nothing on record to show why during 1977 the quota was prescribed in favour of the Storekeepers for promotion to the posts of Head Clerks/Accountants. Storekeeper's duty is to keep the account of the items in the stores and issue them to other departments. On the other hand, the duties of the UDCs are to process the recruitments by promotion, retirements and preparation of bills etc. It is true that both the duties are distinct and different. The duties of both the categories of posts are onerous in their own way. It cannot be said one is light and the other onerous to provide for any quota. Once they are promoted to the posts of Head Clerks/Accountants there was no distinction between them. They will have to perform the same duties in the promoted posts. Therefore, the respondents thought to dispense with the quota in favour of the Storekeepers. It was also stated in the counter-affidavit filed by respondents 1-4 that the sanctioned strength of UDCs is 65 whereas that of Storekeepers is only 13. As such the ratio of 3:1 is disproportional to their strength as the UDCs are five times to the number of Storekeepers. In view of the above considerations there is sufficient justification for deleting the quota in favour of the Storekeepers.


4. Learned counsel for the applicants cited **N. Abdul Basheer & Ors. v. K.K. Karunakaran & Ors.** 1989 Supp (2) SCC 344. It was a case of promotion. The rule fixed the ratio between graduates and non-graduates. It was

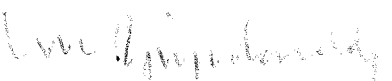
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said that there was no distinction in respect of the conditions of service between the graduates and non-graduates in the posts of Preventive Officers and it was a single cadre. There was no evidence that graduates enjoy higher pay than non-graduates. It was also held that there was no evidence once they were promoted as Excise Inspector there was no distinction between graduates and non-graduates. In that view the Supreme Court held that the description of the ratio dividing the quota of promotion between graduates Preventive Officers and non-graduates Preventive Officers was invalid. In the present case also both are in the same cadre. There is no special pay for the Storekeepers. It was also found that once they are promoted to the posts of Head Clerks and Accountants they are required to do the same job. Hence the quota should be held as invalid. The above judgment will not come to the aid of the applicant. On the other hand, it supports the case of the respondents. Further, as stated above, in view of the strength of the UDCs the quota appears to be without any rationale.

5. There is no material in support of the contention that the amendment made is mala fide as it was only to favour UDCs. The allegation is not established. We find that the quota in favour of the Storekeepers was discriminatory and there was thus sufficient justification in dispensing with it. The contention, therefore, is rejected.

6. In the circumstances the OA fails and is accordingly dismissed. No costs.


(R.K. Ahooja)
Member(A)


(V. Rajagopala Reddy)
Vice-Chairman(J)