

(7)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI.

O.A.No. 1927 of 1994

New Delhi: April 17th, 1995 .

HON'BLE MR. S.R.ADIGE, MEMBER (A)

HON'BLE MRS. LAKSHMI SWAMINATHAN , MEMBER (J)

Shri S.K.Govilkar s/o Late Shri B.R.Govilkar,
r/o 204, Pocket D, Mayur Vihar Phase II, New Delhi-110092

.....Applicant.

(Applicant Shri S.K.Govilkar in person)

Versus

Union of India through

1. Secretary, Civil Aviation,
Rajiv Gandhi Bhawan,
Safdarjang Airport,
New Delhi-110003.
2. Secretary ,
Department of Personnel & Training,
North Block,
New Delhi.
3. Chairman,
UPSC, and
Secretary, UPSC, Dholpur House,
Shahjahan Road,
New Delhi, and
4. Shri R.Chinnadurai,
Dy. Director (R & D),
O/o the Director General of Civil
Aviation, Safdarjang Airport,
New Delhi

.....Respondents.

JUDGMENT

By Hon'ble Mr. S.R.Adige, Member (A)

In this application, Shri S.K.Govilkar, employed in Civil Aviation Department, has impugned the order dated 25.7.94 (Annexure-A1) appointing Shri R.Chinnadurai to the post of Deputy Director (Research & Development) in Civil Aviation Department (CAD) in an officiating capacity , and has prayed for a direction to the respondents that he be appointed to

/h

the said post in accordance with the rules on redeployment of surplus staff.

2. Applicant's case is that he was appointed in Civil Aviation Department on 3.4.74 on the basis of the result of Engineering Services (Electronic) Examination, conducted by the UPSC and consequent to the constitution of the National Airports Authority(NAA) in June, 1986, he was deputed to NAA. In July, 1989, while on deputation, he was promoted as Deputy Director, Communication. In September, 1989, NAA made an offer to the applicant for permanent absorption but he declined the same. He alleges that the Civil Aviation Department did not recall the applicant from deputation after his declining the offer of permanent absorption but during this forced deputation, they also did not agree to his promotion in the NAA. In June, 1990, he was deputed to the External Affairs Ministry and after his reversion from the said Ministry in June, 1992, he was posted as Asstt. Director (Communication) in the Ministry/Director General of Civil Aviation and was informed that he was treated as surplus w.e.f. 2.10.89. The applicant alleges that the respondents did not take any action for redeployment of the applicant on a suitable post.

3. The main grounds taken by the applicant are that the said post is a direct recruitment post as per statutory recruitment rules (Annexure-AVII), and according to the statutory rules on redeployment of Surplus employees; surplus employees get first preference for appointment against direct recruitment posts and the recruitment rules stand amended suitably

for surplus employees as per rules on surplus employees.

4. The main ground taken by the respondents is that the applicant does not possess the essential qualifications required for the post of Deputy Director (R & D).

5. The applicant in his rejoinder reiterated the averments made in the O.A.

6. Rule 4(i) of the CCS (Redeployment of Surplus Staff) Rules, 1990 no doubt states that the surplus employees recommended by the surplus cell will be entitled to first priority for appointment to the vacancies in Group 'A' and 'B' services or posts filled by direct recruitment including those filled through the Commission, but a proviso is attached to this rule that they have to be found suitable by the Commission. These rules by no means imply that the essential qualifications prescribed for a particular post can be waived to accommodate a surplus employee. The applicant has sought to draw support from Rule 10 of the said rules, according to which all rules regulating the recruitment of person to the CCS and posts shall be deemed to have been amended to the extent as provided for in these rules, and also the fact that in the advertisement the qualifications were relaxable, but this does not imply that the UPSC acted illegally, malafidely, arbitrarily or perversely in not relaxing the essential qualifications for the applicant.

7. The applicant is neither an Aeronautical Engineer nor possesses the necessary experience of

^

7 years in Aeronautical Engineering (Research & Development) which are essential qualifications and this is not denied by the applicant. Furthermore, as pointed out by the respondents, the post held by the applicant is Asstt. Director (Communication) in the pay scale of Rs. 3000-4500 whereas the post of Deputy Director (R&D) is in the scale of Rs. 3700-5000 and hence the applicant is not eligible to be adjusted against the post of Deputy Director (R&D).

8. Under the circumstances, the application is devoid of merit and it fails. It is accordingly dismissed. No costs.

Lakshmi Swaminathan
(LAKSHMI SWAMINATHAN)
MEMBER (J)

S.R. Adige
(S.R. ADIGE)
MEMBER (A)

/ug/