

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 1962/94

199

T.A.No.

(6)

DATE OF DECISION 3-2-99

Sh. B. R. Arya

....Petitioner

None present

....Advocate for the
Petitioner(s)

VERSUS

UCI and Ors

....Respondent

....Advocate for the
Respondents.

CORAM

The Hon'ble Smt. Lakshmi Swaminathan, Member (J)

The Hon'ble Shri S. P. Biswas, Member(A)

1. To be referred to the Reporter or not? YES
2. Whether it needs to be circulated to other Benches of the Tribunal? No.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member(J)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA-1962/94

7

New Delhi this the 3rd day of August, 1999.

Hon^{ble} Smt. Lakshmi Swaminathan, Member(J)
Hon^{ble} Sh. S.P. Biswas, Member(A)

Shri B.R. Arya,
Senior Research Officer,
C/o Sh. M.R. Bhardwaj,
D-7, Hauz Khas, New Delhi-16. Applicant

(None present)

versus

1. Union of India,
through Secretary,
Deptt. of Personnel & Training,
North Block, New Delhi.
2. Union Public Service Commission,
Dholpur House,
Shahjahan Road,
New Delhi. Respondents

(through Sh. VSR Krishna, advocate)

ORDER(ORAL)

Hon^{ble} Smt. Lakshmi Swaminathan, Member(J)

The applicant is aggrieved by the respondents not agreeing to his request that the persons holding the post of Senior Analysts in the Department should not be considered for purposes of promotion to the post of Joint Director. By Notification dated 18.10.89, the Ministry of Personnel, Public Grievances & Pensions (Department of Personnel & Training) Joint Director (Research and Training) Recruitment Rules 1989 came into force, amending the earlier rules of 1981. By the 1989 rules, the person holding the post of Senior Analyst with 5 years regular service in that grade has been included together with Senior Research Officers, as feeder cadres for promotion to the post of Joint Director (Research). The applicant has submitted that inspite of his request

12

8

that such posts of Senior Analysts may not be included in the rules, since it adversely affects his promotional avenue from Senior Research Officer to the post of Joint Director, that request had been turned down. Hence this O.A. has been filed on 22.9.1994.

2. We have perused the reply filed by the respondents and heard Shri V.S.R. Krishna, learned counsel for the respondents.

3. The respondents have submitted that the aforesaid decision to amend the relevant rules to include Senior Analyst as feeder grade for promotion to the post of Joint Director has been done in pursuance of the recommendations of the Restructuring Committee. It is also submitted that the administrative decision to include the post of Senior Analyst for promotion to the post of Joint Director had been taken in 1988 with the approval of the competent authority. Consequently the Recruitment Rules were amended. In the circumstances, they have submitted that the Senior Analysts who have now been included in the amended Recruitment Rules of 1989 as a feeder grade for promotion to the post of Joint Director cannot be treated as outsiders. They have further submitted that the two categories of posts, namely, the posts of Senior Analyst and Senior Research Officer are in the same scale of pay. The learned counsel has further submitted that the decision taken by the competent authority to include the post of Senior Analyst by way of an amendment in the Recruitment Rules of 1981 has been done after taking a conscious decision,

9

taking into account the exigencies of the post, that it is an isolated post, promotional avenues and other relevant factors. He has, therefore, submitted that the contention of the applicant that the amended Recruitment Rules for promotion to the post of Joint Director should be quashed and set aside is without any merit and he prays that the O.A. may be dismissed.

4. It is settled law that the Government/rule making authority has powers to frame rules, including prescribing eligibility conditions of persons for purposes of recruitment and promotion classify/reclassify posts, encadrement/decadrement of posts and to provide suitable promotional avenues to all the different categories of persons employed in the Department. (see for example Lift Irrigation Corp. Vs. P.K. Mohanty (1991(1) Scale 399)). It is also well settled law that the rule making authority has ample powers to make laws as well as amend the same taking into account all the relevant factors.

5. From the facts mentioned above, it is clear that the respondents have taken a conscious decision to include the post of Senior Analyst as an eligible category for purpose of consideration for promotion to the post of Joint Director, by an amendment in the Recruitment Rules of 1981, which they carried out in 1989 by Notification dated 18.10.1989. This decision itself has been preceded by constituting a Restructuring


R.

10

Committee in the Research Cadre of the Department, which had looked into the relevant factors before making their recommendations (Annexure R-1). The Committee had also noted that for the three Senior Analysts who are with the Department of Administrative Reforms & Pension & Grievances (AR&PG for short) on regular posts, they did not have any promotional avenues and it was desirable that they should be considered on the reserve side of the Department. Under the 1981 Recruitment Rules, for promotion to the post of Joint Director the feeder category was the post of Senior Research Officer with at least 5 years regular service in that grade, failing which Senior Research Officers with atleast 10 years continuous regular service in the grade of SRO and RO. The respondents have stated that the post of Senior Analyst and that of Senior Research Officer have the same pay scale and have comparable duties and responsibilities. In the circumstances of the case, noting also the fact that the Committee had observed that there was no promotional avenues for the Senior Analysts who are working with the respondents, for whom the same was provided by the amendment in the Recruitment Rules in 1989, the action of the respondents cannot be faulted. The rules have also not been challenged on any ground that they are ultra vires the provisions of Constitution.

6. In the result, for the reasons given above, we find no merit in this application. The O.A. is accordingly dismissed. No order as to costs.


(S.P. Biswas)
Member(A)


(Smt. Lakshmi Swaminathan)
Member(J)