

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No. 1799/89

New Delhi, dated the 13th May, 1994.

Hon'ble Shri B.N. Dhoundiyal, Member (A)
Hon'ble Smt. Lakshmi Swaminathan, Member (J)

Shri M.L. Razdan
R/o Sector-1 Block 104/6,
Pushpa Vihar, M.B. Road,
New Delhi

... Applicant

(By advocate Sh. Gyan Prakash)

Versus

1. Union of India,
through Secretary,
Ministry of Information & Broadcasting,
Shastri Bhawan, New Delhi.
2. Director General, All India Radio,
Akashwani Bhawan, New Delhi
3. Director General, Doordarshan,
Mandi House, New Delhi
4. Station Director,
All India Radio, New Delhi
5. Shri Laxmi Narain,
Inspection Unit,
Office of Director General, AIR,
New Delhi.
6. Shri Anand Mahesh,
Office of Director,
Doordarshan Kendra,
Akashwani Bhawan, Parliament Street,
New Delhi
7. Shri Ami Lal,
Office of D.G. Doordarshan,
Mandi House, New Delhi
8. Shri Walter David,
Junior Reception Officer,
DG, AIR, New Delhi
9. Shri S.R. Chawla,
Care Taker, Staff Training Institute,
(Technical), AIR, Kingsway Camp,
Delhi

... Respondents

(By Advocate Shri Madhav Panikar)

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O R D E R

(Hon'ble Shri B.N. Bhoundiyal, Member(A))

The applicant Shri M.L. Razdan/working as Clerk Grade-I, Central Purchase and Store, Doordarshan, Sirifort Complex, Ministry of Information and Broadcasting, at the time of filing of this application. He is aggrieved that no departmental examinations were held during the period of 1983 to 1988, even though, Recruitment Rules provide for, ^{it. b/w} The provision made for departmental examination was dropped in the amended Recruitment Rules notified on 23.5.1988 only. The other grievance is that those who were left in the panel of 1983 departmental examination were adjusted as late as in 1989. In 1983, rules were brought in two more categories of personal in the feeder grade for the post of Head Clerk and equivalent. These posts were of Caretaker and Junior Reception Officer and in one case, scale provided for them i.e. 1200-1800 was lower than the scale provided for the post of UDC or equivalent i.e. Rs 1200-2040. These posts were filled up after, 1987 only by transfer on deputation and could not be treated as feeder posts. No relief was for promotion to the grade of U.D.C. The following reliefs have been claimed:-

- (1) Quashing the seniority list of CGI, SK(Jr.) /JRO and Caretakers for promotion to the post of HC/Acctt/Sr.Store keeper issued vide dated 9.6.89.
- (2) Quashing promotion order No.120/1989/SII dated 3.8.1986 based on the aforesaid impugned seniority list and amend the

Recruitment rules notified on 23.5.1988 and exclude the posts of Caretakers and Junior Reception Officers from the zone of consideration to the post of Head Clerk/Accountant/Senior Store Keeper.

(3) Quashing the promotion orders of candidates, promoting on the basis of qualifying departmental examination.

2. In the counter filed by the respondents, the main averments are ; according to the Recruitment Rules notified on 24.2.70. 50% promotion are to be made on the basis of qualifying departmental examination from amongst CG-II/CG-I/Stenographer (both Jr. & Sr.) with a minimum of 5 years service and 50% by promotion on the basis of seniority cum fitness from amongst clerk Grade-I/Storekeeper with a minimum of 12 years service qualifying for seniority as clerk grade-II or Grade-I /Storekeeper out of which at least 5 years service should be in the grade of Clerk Gr.I/Storekeeper.

The inclusion of two categories of hitherto excluded posts namely Caretaker/Jr.Reception Officer in the feeder grade for the promotion to Headclerk or its equivalent post was provided on the basis of the recommendations of the cadre restructuring Committee. No departmental examinations were held after 1983. Respondents have stated that as per the result declared on 26.4.1984 about 26 candidates were declared successful, out of which only 24 candidates had already been promoted to the post of Head Clerk/Accountant under the 50% quota. As two qualified

11

candidates were still available, no further departmental examination was held. Seniority list has been prepared strictly in accordance with the revised recruitment rules. If some more categories of staff have been included in the feeder grade some extra benefits have also been given to that category to which the applicant belonged i.e. increasing the percentage of promotion on the basis of seniority cum-fitness from 50% to 80%.

3. We have gone through the records and heard the learned counsel for both the parties. Learned counsel for the applicant argued that before the amendment of Recruitment Rules notified in 1988, statutory rule provided for the holding of departmental examinations. However, these were discontinued by the executive instructions issued vide letter dated 15.12.1983. This circular also states that amendments in the existing Recruitment Rules are being processed and that no examination for the post of Head Clerk/ Accountant/Sr. Store keeper will be held in future. The question to examine here is whether the order dated 14/15.12.83 could be challenged in 1989. While it is correct that statutory rules over-ride any conflicting executive instructions, in this case, the intention of the respondents to amend the recruitment rules has been made very clear. The applicant had completed 5 years of service in Grade-I in 1977 and he could have availed opportunity to appear in the examination held upto 1983. It is not known whether he availed such opportunity or not. After 1983, no departmental

examination was held but promotions were made from the promotion quota on the basis of seniority and as such it cannot therefore be said that the applicant in particular has been discriminated against.

4. Learned counsel for the applicant contended that life of the panel is only for one year and it was wrong on the part of the respondents to have declared a panel of 26 candidates in 1984 and to have given promotion to the last employee in the panel in 1989. This argument cannot be sustained as the amendment to the Recruitment Rules, 1988 clearly states that no Direct Recruitment will be made till the already qualified employees are not adjusted. Thus, it is clear that the candidates from the departmental examination panel were to be adjusted against the quota for the direct recruitment as such no prejudice was caused to the applicant aspiring for promotion quota. One of the arguments advanced by the learned counsel for the applicant was that seniority list was prepared wrongly with inclusion of the caretaker/Junior Reception Officer who have a separate line of promotion in CCS. However, this was not borne out by the rule notified on 10.9.1987 which makes it clear that these posts are not linked with the Central Secretariate Service. In fact this inclusion was based on the recommendations of the restructuring committee as these categories of officers had no avenue for promotion. The arguments that they were no permanent cadres in these categories and these posts were filled up by transfer on deputation is also not maintainable, as this provision was made only in 1987. It is also clear, that only

clerk Grade-II and grade-I and equivalent were eligible for transfer on deputation as caretakers and belonged to the same category, which in otherwise was eligible for promotion. When feeder grade consists of different type of posts some difference may exist in the salaries of various categories.

5. In view of the aforesaid considerations, the application fails and is hereby dismissed. There will be no order as to costs.

Lakshmi
(Smt. Lakshmi Swaminathan)
Member (Judicial)

B.N. Dhundiyal
(B.N. Dhundiyal)
Member (A)

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