

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 2093/89 198⁴
T.A. No.

DATE OF DECISION 17.4.1990.

Postal Officers Association Applicant (s)
and Another

Shri Sant Lal Advocate for the Applicant (s)

Versus
Union of India through Respondent (s)
Secretary, Ministry of
Communications.

Shri P. H. Ramchandani Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. P. K. Kartha, Vice-Chairman (Judl.)

The Hon'ble Mr. D. K. Chakravorty, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgement ? *Yes*
2. To be referred to the Reporter or not ? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *No*
4. To be circulated to all Benches of the Tribunal ? *No*

JUDGEMENT

(delivered by Hon'ble Shri P. K. Kartha, V. C.)

The applicant Association represents the Postal Officers in Group 'B' and Group 'A' in junior and senior time-scales (departmental) throughout the country. The grievance of the applicants is in regard to the reduction of certain posts in senior and junior time-scales of Indian Postal Service Group 'A' by the impugned order dated 29.8.1989, which was issued consequent upon the approval by the Government of the third cadre review of the Indian Postal Service, Group 'A'. In this application filed under Section 19 of the Administrative Tribunals Act, 1985, they have prayed for setting aside the impugned order dated 29.8.1989 and for restraining the respondents from

reducing the posts pursuant to the said impugned order.

2. The pleadings in this case are complete. The application has not been admitted. In our opinion, the application could be disposed of at the admission stage itself.

3. The facts of the case are not in dispute. The Third Central Pay Commission had recommended in its report to conduct periodic review of the cadre structure of Group 'A' Services. This recommendation was accepted by the Government. The first cadre review was carried out in 1981 and the second, in 1985. The third cadre review covering the period 1988-90 was carried out in 1989. By the impugned order dated 29.8.1981, the respondents decided to revise the strength of the posts in the various grades as follows:-

(a) Upgradation of six existing posts of Chief Postmasters General in the scale of Rs.5900-6700 to Rs.7300-7600, diversion of one post of Senior Deputy Director General (Vigilance) at Headquarters in the scale of Rs.7300-7600

gradation by ~~down~~ ^{up} to Deputy Director General in the scale of Rs.5900-6700 and simultaneous upgradation of one post of Chief Postmaster General (Rs.5900-6700) in Madhya Pradesh Circle to Chief Postmaster General (Rs.7300-7600).

(b) Upgradation of 20 posts of Directors, four posts of Directors Mail Planning Organisation and two posts of Joint Directors, Postal Staff College - all in the Junior Administrative Grade from the scale of Rs.3700-5700 to the scale of Rs.5900-6700.

(c) Upgradation of 23 posts and two posts of Deputy Director, Postal Staff College - all in the senior time-scale from Rs.3000-4500 to Rs.3700-5700.

(d) Reduction of 25 posts in the senior time-scale (Rs.3000-4500).

(e) Reduction in the overall strength of reserves in the junior time-scale from the existing 121 posts to 96 posts.

4. The case of the applicants is that under the impugned order, there is an overall reduction of 75 posts whereby the avenues of promotion of the members of the applicant Association has been drastically curtailed while the avenues of promotion of the directly recruited officers has been considerably improved at the cost of the former. They have alleged that this is arbitrary, discriminatory and violative of Articles 14 and 16 of the Constitution. They have no grievance or grudge for improvement of the avenues of promotion for the directly recruited officers of Indian Postal Service, but the grievance of the Association is that this is sought to be done at the cost of its opportunities by which their avenues of promotion have been reduced.

5. The case of the respondents is that similar cadre reviews have been carried out in all organised Central Services and the decisions arrived at/implemented after receiving Cabinet's approval. They contend that the number of posts to be reduced are 25 and not 75 and that the benefit of upgradation would accrue to both directly recruited and promoted officers. Once an officer of Postal Group 'B' is promoted to the junior time-scale, he becomes

*Superintendents
Service*

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a member of the Indian Postal Service, Group 'A' and his further promotion within Group 'A' is regulated in accordance with the recruitment rules of Indian Postal Service, Group 'A'. The promotion of officers from junior time-scale to senior time-scale is on the basis of seniority, subject to the rejection of unfit. The reduction of posts in the senior time-scale would not, therefore, adversely affect the applicants.

6. The respondents have also pointed out that in the context of the cadre review proposals, it has been decided that henceforth the vacancies in junior time-scale of the Indian Postal Service, Group 'A', be filled up in the ratio of 50 : 50 (instead of 60 : 40 which is the existing ratio) between the direct recruits and the promotee officers. Further, the basis of calculation of the quota for the promotee officers and those recruited directly, will be shifted from vacancies arising in a given year in the junior time-scale to the duty posts in junior time-scale.

7. The applicants have stated in their rejoinder affidavit that the promotee officers never reached the level of Junior Administrative Grade, though on paper, such opportunity does exist.

8. We have carefully gone through the records of the case and have heard the learned counsel for both the parties.

9. In a catena of decisions, the Supreme Court has held that though right to be considered for promotion is a condition of service, mere chances of promotion are not. A rule which merely affects chances of promotion, cannot be regarded as varying a condition of service.*

* Vide State of Mysore Vs. G.B. Purushit, 1967 SLR 753;
Mohd. Shujat Ali Vs. Union of India, 1975 (3) SCC 76;
Paluru Ramakrishnaiah & Others Vs. Union of India & Ors.,
J.T. 1989 (1) S.C. 595.

10. In Dr. N.G. Shingal Vs. Union of India & Others, 1980 (3) S.C.C. 29 at 44-45, the Supreme Court observed that "creation and abolition of posts is a matter of Government policy and every sovereign Government has power in the interest and necessity of administration. The creation or abolition of posts is dictated by policy decision, exigencies of circumstances and administrative necessity. The creation, continuance and the abolition of posts are all decided by the Government in the interest of Administration and general public."

11. In the light of the aforesaid judicial pronouncements, we are of the opinion that the cadre review in question which may affect the chances of promotion of some officers, cannot be called in question on legal or constitutional grounds. Cadre review per se or in the instant case, cannot be said to be arbitrary or unreasonable. We see no merit in the present application and the same is dismissed at the admission stage itself. The parties will bear their own costs.

D. K. Chakravorty
(D.K. Chakravorty)
Administrative Member

17/4/1990

P. K. Kartha
(P.K. Kartha)
Vice-Chairman (Judl.)
17/4/90