

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 2450/89
XXXNo.

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DATE OF DECISION 19.12.1989

Shri B.S. Rana & Others Applicant (s)

Shri K.N.R. Pillay Advocate for the Applicant (s)

Versus

Union of India & Others Respondent (s)

Shri M.M. Sudan Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. P. K. KARTHA, VICE CHAIRMAN(J)

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? Yes
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

(The judgment of the Bench delivered by Hon'ble Shri P.K. Kartha, Vice Chairman(J)).

The applicants, who are working in the Adult Education Branch in the Directorate of Education, Delhi Administration in various capacities filed this application under Section 19 of the Administrative Tribunals Act, 1985 praying for the following reliefs:-

- (i) To quash the orders dated 24.11.1989 at Annexures A-I and A-II and direct that the applicants shall be retained as Supervisors/Project Officers in the Adult Education Branch in preference to their juniors selected in 1985 and 1986; and
- (ii) to quash the arbitrary abolition of some posts of Project Officers/Supervisors with the sole object of driving out the applicants from the Adult Education Branch and direct that the guidelines issued by respondent No.1 (Union of India) be followed, that the Project Officers shall not be replaced by volunteers or

part-time workers and if some of the posts of Supervisors are replaced by volunteers on honorarium, the reversion of the existing Supervisors should be on the basis of 'last come first go' and the senior persons should be retained in the Adult Education Branch either as Supervisors or in the post of Assistant Project Officers or other posts in the Adult Education Cadre.

2. The Adult Education Branch in the Delhi Administration consists of personnel, some of whom are in the category of Social Education while some others to the category of the ~~Adult~~ Adult Education. The posts on ~~Social~~ Education side are Supervisor, Technical Assistant, Assistant Social Education Officer and Assistant Director (Social Education) while the posts on the Adult Education side are Social Worker, Supervisor, Project Officer and Assistant Director (Adult Education). The applicants before us ~~xxx~~ are Trained Graduate Teachers/ Post Graduate Teachers of the various schools in Delhi and have worked in the Adult Education Branch for some years. Their grievance has been that out of ulterior motives, they had been given step motherly treatment and that the respondents had not been sympathetic to their continuance in the present post and that those belonging to the Social Education side are being favoured. The Recruitment Rules made for Project Officers were challenged before this Tribunal in CA 53/86 in which the Tribunal has delivered its judgment on 19.10.1988. Two other applications are pending in this Tribunal - CA 765/88 and CA 2053/89. In the Judgment of the Tribunal dated 19.10.1988 in CA 53/86, the Tribunal observed that the Supervisors (Adult Education) were given step motherly treatment. The application was allowed and the Tribunal declared that the Recruitment Rules for the post of Project Officers Grade II notified on 27.8.1983 suffered from the vice of discrimination and were violative of Articles 14 and 16 of the Constitution in so far as they exclude Supervisors

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(Adult Education) as one of the feeder categories for promotions. Accordingly, the Tribunal set aside the impugned Recruitment Rules to the extent of such ~~exclusion~~ ^{exclusion} and directed that like Supervisors(Social Education), Supervisors (Adult Education) with 5 years of experience in the grade should also be included as the first of the eligible categories for promotion. It was further directed that a review DPC should be held to consider Supervisors(Adult Education) with 5 years of service as on 1.2.1985 when respondents 3 to 6 were promoted and if some of them were included in the panel within the number of vacancies of Project Officers available on that date, they should be given notional promotion as Project Officers till they were retained in the Adult Education Wing. The respondents were given time of three months to comply with above directions contained in the Judgment of the Tribunal.

3. In the meanwhile, the respondents had promoted 24 Social Workers from the Social Education Branch as Supervisors (Adult Education) by order dated 21.7.1986. It is alleged that to get vacancies for them who are alleged to be the favourites of respondent No.3 (Additional Director, Adult Education), another order was issued on the same date declaring 24 Supervisors (Adult Education), surplus and reverting them back as teachers. The Director of Education, however, kept this reversion order in abeyance and finally issued orders dated 15.9.1986 according to which the Supervisors drawn from the teaching cadre would continue to work in the Adult Education Branch. By a subsequent order dated 7.9.1989, it was, however, decided that all teachers from the Adult Education Branch should be relieved and that they should be asked to go back to the teaching cadre. The said order has been challenged before the Tribunal in OA 2053/89 wherein a stay has been granted by the Tribunal.

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4. In OA 765/88 (V.R. Arya Vs. U.O.I & Others) which is pending in the Tribunal, the policy of the Government in replacing Supervisors(Adult Education) by part-time workers on honorarium basis has been challenged. By interim order dated 6.3.1989, the Tribunal has directed that the applicants may be allowed to continue in the posts which are presently being occupied by them till such time these posts are abolished.

5. We have gone through the records of the case carefully and have heard the learned counsel of both parties. The respondents have made available to us for our perusal the relevant files on the subject.

6. The impugned orders at Annexures A-I and A-II (pages 25-26 of the Paper-Book) are the relieving orders of the Supervisors and the Project Officers belonging to the Adult Education Branch "consequent upon the order of the Lt. Governor, Delhi, to abolish" the post of Supervisors and Project Officers. The relieving orders have been signed by Additional Director of Education.

7. The applicants filed this application on 7.12.1989 without exhausting the remedies available to them under the relevant service rules. The respondents have not filed their counter-affidavit. When the matter came up for admission and interim relief on 12.12.1989, the learned counsel of the respondents stated that the impugned orders were passed consequent upon the decision of the Delhi Administration to abolish the post of Supervisors/Project Officers. He drew our attention to the letter dated 24.11.1989 regarding creation of temporary/ad hoc post for Urban Projects under the National Adult Education Programme for the period 1.12.1989 to 28.2.1990. These posts include: 20 posts of Project Officers and 60 posts of Supervisors. The Project Officers are to be paid at the

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rate of Rs.1,500 per month fixed and the Supervisors at the rate of Rs.4,000 per annum for supervision of 10 Centres.

By a separate order of the same date, 20 posts of Project Officers and 60 posts of Supervisors have been sought to be abolished. All these orders also state that they have the approval of the Lt. Governor.

8. Section 29(2) of the Delhi Administration Act, 1966 provides that "save as otherwise provided in this Act, all executive action of the Administrator, whether taken in his discretion or otherwise, shall be expressed to be taken in the name of the Administrator". Sub-Section(3) of Section 29 provides that "orders and other instruments made and executed in the name of the Administrator shall be authenticated in such manner as may be specified in the rules to be made by the Administrator, and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the Administrator".

9. On going through the files placed before us, it is noticed that the decision for abolition of posts of Project Officers and Supervisors has been taken by the Directorate of Education with the approval of the Chief Secretary. It is, however, not clear as to whether under the relevant Rules of Business of the Delhi Administration, such a proposal is required to be submitted to the Administrator for his approval or whether the power in this regard has been delegated to the Chief Secretary. In case the power has not been delegated to the Chief Secretary, the approval given by him alone would not be sufficient for the purpose of abolishing the posts.

10. Apart from the above, the Delhi Administration has purported to abolish these posts in implementation of a national policy of the Central Government pertaining to Adult Education Programme which affects a large number of

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employees in the Union Territory of Delhi. We would not have normally interferred with a policy decision for abolition of posts. In the instant case, a large number of Supervisors and Project Officers who are applicants before us ^{or} have, however, alleged arbitrariness and lack of bonafides on the part of the respondents. Without expressing any opinion as regards the circumstances under which the impugned orders have been passed and having regard to the magnitude of the issues involved, we feel that this is a fit case in which the applicant should be directed to make representations against the impugned orders to the Lt. Governor, Delhi, as well as to the Secretary, Ministry of Education and Social Welfare within a period of three weeks from the date of communication of this order. The respondents should consider the points raised in the representations as expeditiously as possible, but in no event later than 28th February, 1990. They should pass a speaking order on the representations made by the applicants. In case they are still aggrieved by the decision taken by the respondents, the applicants will be at liberty to file a fresh application in the Tribunal, in accordance with law.

11. In view of the aforesaid order, we further direct that the respondents shall not give effect to the impugned orders dated 24.11.1989 at Annexures A-I and A-II as well as the orders issued by them for abolishing the post of Project Officers and Supervisors till the appeal is decided, as mentioned in Para 10 above.

12. The application is disposed of with the above directions at the admission stage itself. The parties will bear their own costs.

D.K. Chakravorty
(D.K. CHAKRAVORTY)
MEMBER (A)

19/12/89
(P.K. KARTHA)
VICE CHAIRMAN (J)