

4

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 727/87 1987
T.A. No.

DATE OF DECISION 20.10.1989

Shri U.K. Roy & Others Applicant (s)

Shri M.K. Gupta Advocate for the Applicant (s)

Union of India & Others ^{Versus} Respondent (s)

Shri M.L. Verma Advocat for the Respondent (s)

CORAM :

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

The Hon'ble Mr. P.C. Jain, 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

(Judgement of the Bench delivered by Hon'ble Shri
P.K. Kartha, Vice-Chairman)

The first applicant retired on 30.12.1987 as Assistant Meteorologist in the Office of the Director General of Meteorology. Applicants No.2 and 3 are working as Meteorologist Grade I w.e.f. 28.3.1989. In this application filed by them jointly under Section 19 of the Administrative Tribunals Act, 1985, they have prayed that the seniority list of Assistant Meteorologists issued by respondent No.3 (the Director General of Meteorology) vide O.M. dated 28.2.1989, be quashed and that they be given all consequential reliefs.

2. Applicant No.1 joined the Indian Meteorological Department in 1950 as Senior Observer. He was subsequently recruited through competition as a Scientific Assistant in 1952. The post of

Scientific Assistant is a feeder post to that of Professional Assistant to which he was promoted in July, 1964. Applicant No.2 was selected through competition as Professional Assistant in 1968 and he joined the said post in 1969. Applicant No.3 joined as Scientific Assistant through competition in 1958 and he was promoted to the post of Professional Assistant in 1969.

3. Recruitment to the post of Assistant Meteorologist is governed by the Indian Meteorological Department (Class I and Class II posts) Recruitment Rules, 1968. The method of recruitment is 50 per cent by promotion from the cadre of Professional Assistants and 50 per cent by direct recruitment. No direct recruitment was made during 1972-1976 and all the vacancies were filled by promotion.

4. The Third Pay Commission recommended that no direct recruitment in the cadre of Assistant Meteorologists should be resorted to and that 100 per cent of the posts should be filled by promotion. Though this recommendation was accepted by the Government, U.P.S.C. was not agreeable to the same without prescribing some minimum qualifications. Pending this, appointments were made by direct recruitment. ^aas per the Rules.

5. Applicants No.2 and 3 were given officiating/
^ain the grade of Assistant Meteorologist
ad hoc promotion/w.e.f. 1.1.1976 and 5.10.1976, respectively.

6. The applicants have stated that as per the rules, a Professional Assistant having three years' experience in the cadre, became eligible/entitled for the next promotion as Assistant Meteorologist, but it took 14 years to applicant No.1 and 9 years to applicants No.2 and 3 to get their regular promotion, for no fault of theirs. The version of the respondents is that promotion to the grade of Assistant Meteorologist was made against the vacancies

a

available for the promotion quota, that the relevant recruitment rules were modified to fill up the posts in that grade by 100 per cent promotion in June, 1982 and thereafter all the vacancies available were filled up by promotion strictly in accordance with the rules.

7. Respondent No.3 issued ^aseniority list dated 26.8.1982 which was challenged by ^{some} Assistant Meteorologists in the Madras High Court on the ground that since there was failure of quota and rota from 1972 to 1976, the direct recruit Assistant Meteorologists of 1977 could not be shown senior to the promotee Assistant Meteorologists of 1972 to 1975. The Madras Bench of the Tribunal, to which the case stood transferred from the High Court, delivered its judgement on 19.9.1986,^{*} whereby the impugned seniority list was quashed and the second respondent (the Director General of Meteorology) was directed to prepare a fresh seniority list in accordance with the law in the light of the principles highlighted in the judgement.

8. Thereafter, a fresh seniority list was prepared by the respondents vide their O.M. dated 8.7.1987. The applicants claim that as per the fresh seniority list of 1987, they gained their seniority compared to the seniority list of 1982. By virtue of this, they became entitled to promotion to the post of Meteorologist Gr. I w.e.f. 1984 when their juniors were promoted to the post of Meteorologist Grade I. However, instead of convening a Review D.P.C. to consider them for such promotion, the respondents followed the 1982 seniority list and considered applicants No.2 and 3 for promotion at the D.P.C. meeting held in September, 1988.

* TA-789/86 - T.V. Vaidyanathan & Ors. Vs. Union of India & Others.

9. Respondent No.3 issued a revised seniority list vide their O.M. dated 24.2.1989 and this has been called in question in the present proceedings. According to the applicants, the seniority list of 1987 is in accordance with the directions of the Madras Bench of the Tribunal and it is the final seniority list. By revising the same in 1989, the respondent No.3 has disobeyed/flouted the directions of the Tribunal. It has also been alleged that no notice or opportunity of hearing was given to the applicants before the re-revision of the seniority list in 1989. The seniority ^{position} of the applicants in the 1989 seniority list is the same as that of their position in the 1982 seniority list.

10. The respondents have stated in their counter-affidavit that some of the Assistant Meteorologists raised certain objections to the seniority list circulated in July, 1987 and, therefore, the case was referred to the Department of Personnel & Training. The seniority list was thereafter corrected in consultation with the Department of Personnel & Training and circulated on 28.2.1989.

11. According to them, as per the recruitment rules for the post of Meteorologist Grade I, an Assistant Meteorologist with 8 years' approved service in the grade becomes eligible for consideration for promotion. As the applicants completed the requisite period of service only in March, 1986, they were not entitled for consideration for promotion in 1984. They have averred in their counter-affidavit that the revised seniority list of 1989 was circulated and objections were to be submitted upto 15.3.1989, but the applicants did not make any

representation and rushed to the Tribunal prematurely and filed the present application on 4.4.1989 (vide pp.54 and 60 of the paper-book). They have also contended that the seniority list circulated in 1989 is in strict accordance with the judgement of the Madras Bench of the Tribunal and the applicable rules.

12. The applicants have denied in their rejoinder that any objections were invited in regard to the 1989 seniority list.

13. We have carefully considered the matter and have heard the learned counsel for both the parties. The seniority list of 1987 was prepared pursuant to the directions contained in the judgement of the Madras Bench of the Tribunal dated 19.9.1986. The seniority list of 1982 was revised in 1987 so far as serial Nos.69 to 225 of the said seniority list were concerned. In para.3 of the O.M. dated 8.7.1987, it was stated that "this may kindly be circulated among the concerned officers and the portion of old seniority list (circulated vide letter dated 14.9.1982) for serial Nos.69 to 225 may be kindly replaced with this revised portion of the list." In para. 5 of the said O.M., it is stated that "The particulars of the officers under your control may be kindly checked, mistakes and omissions, if any, may be kindly intimated to this Office by 20.7.1987 for needful in this office." There is no indication in the papers on the file that the seniority list of 1987 was, in fact, circulated among the officers concerned and that their objections, if any, were invited by a set target

Oy

.....6....

date. However, after the conclusion of the hearings, the respondents have produced representations submitted by some of the officers from which it would appear that the respondents had circulated the seniority list of 1987 vide their U.O. No.A-23022/II/87-E dated 8.7.1987.

14. As regards the seniority list which was revised in 1989, no such evidence has been placed before us. Paras.3 and 5 of the letter of the respondents dated 28.2.1989 (Annexure A-6, p.45 of the paper-book) are also couched in the same language as their previous communication dated 8.7.1987 regarding the seniority list of 1987. However, in para.2 and the first sentence of para.3 of the O.M. dated 28.2.1989, it has been stated that "On the basis of the judgement of the Central Administrative Tribunal, Madras Bench, Madras, the above seniority list (i.e. that of 1982) was revised in respect of Assistant Meteorologists from S.No.69 to 225 therein and this revised portion of the seniority list was circulated vide this office U.O.I. of even number dated 8.7.1987, referred to above. On objections from some of the officers, this re-revised portion of the seniority list of Assistant Meteorologists from S.Nos.69 to 225 was referred to the Department of Personnel & Training. The seniority list from S.Nos.69-225 as approved by the Department of Personnel & Training, is enclosed."

15. There is no material before us to substantiate the contention of the respondents that the seniority list of 1989 was circulated and objections were invited from the officers concerned upto 15.3.1989. The applicants have emphatically denied this contention. In the facts and circumstances of the case, we, therefore, direct the

Q

respondents to circulate the re-revised seniority list of 1989 among all the officers concerned within a period of two months from the date of communication of this order. The respondents shall consider the representations or objections raised by the officers concerned within a period of three months thereafter and finalise the seniority list after taking into account the representations/objections received by them. The application is disposed of with the above directions. The parties will bear their own costs.

Cec 29/10/89
(P.C. Jain)
Administrative Member

Sumit 20/10/89
(P.K. Kartha)
Vice-Chairman(Judl.)