

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 1409/88

New Delhi this the 30th day of November, 1993.

CORAM :

THE HON'BLE MR. JUSTICE V. S. MALIMATH, CHAIRMAN
THE HON'BLE MR. S. R. ADIGE, MEMBER (A)

Abraham Philip,
Senior Research Officer (Printing),
Forest Research Institute,
Dehradun. ... Petitioner

By Advocate Shri J. P. Verghese

Versus

Union of India through the
Secretary, Ministry of
Environment & Forests,
Department of Environment,
Forests & Wildlife,
Paryavaran Bhawan,
CGO Complex, Lodi Road,
New Delhi. ... Respondents

By Advocate Shri N. S. Mehta

O R D E R (ORAL)

Hon'ble Mr. Justice V. S. Malimath :-

The petitioner, Shri Abraham Philip, was appointed as a Senior Research Officer (Printing) in the year 1983. He has challenged in this case the Department of Environment, Forests & Wildlife Scientific Group 'A' Posts Rules, 1987 on the ground that they are discriminatory and violative of Articles 14 and 16 of the Constitution in that the post held by the petitioner is not regarded as Scientific Group 'A' Post under the new Rules.

2. The pleadings in the case make it clear that there were Scientific Group 'A' posts regulated by the relevant provisions regarding recruitment to the said Scientific Group 'A' post. So far as the post

held by the petitioner is concerned, its designation is Senior Research Officer (Printing). It is governed by a separate set of rules called the Forest Research Institute and Colleges, Dehradun (Isolated Group 'A' & Group 'B' Posts) Recruitment Rules, 1979. The said Rules continue to remain in force even now. By the new Rules framed in the year 1987, it is provided in Rule 4 that "All the Scientist Group 'A' Posts, in the Department and its attached and subordinate organisations, existing on the date of commencement of these rules specified in column 1 of Annexure I shall ^{be} redesignated as the Scientific Group 'A' posts as specified in the corresponding entries in column 2 thereof." Rule 7.2 of the said Rules provides that "The basic educational qualifications and age limits as applicable to direct recruits shall stand relaxed in case of officers already working in the Department on a regular basis on the date of initial constitution for the purpose of induction to the redesignated posts and for promotion." The clear effect of these two provisions is to re-designate the existing Scientist Group 'A' posts as Scientific Group 'A' posts as specified in the corresponding entries in column 2 of Annexure-I. If such persons whose posts are re-designated do not possess the qualifications prescribed for those posts under the new Rules, Rule 7.2 comes to their aid and provides that the deficiency in educational qualifications shall stand relaxed in their favour. The essential condition for re-designation of the post as Scientific Group 'A' post by way of initial constitution is that the post should have been regarded as Scientist Group 'A' post

before the new Rules came into force. Rule 1.3 of the new Rules says that these rules shall apply to the posts exempted from the purview of the Union Public Service Commission as specified in Annexure-III and to any other post exempted from the purview of the Union Public Service Commission by notification from time to time. This makes it clear that the application of the new Rules is restricted to the posts exempted from the purview of the Union Public Service Commission which were notified in Annexure-III.

3. The contention of Shri Verghese, learned counsel for the petitioner is that there is no justification for not including the post of Senior Research Officer (Printing) in the category of Scientist Group 'A' posts under the new Rules. He submitted that the post of Publicity & Liaison Officer and that of the Transportation Officer included at serial Nos. 33 and 40 of the Annexure-III to the new Rules cannot on any basis be regarded as having a scientific flavour to justify their inclusion in the category of Scientific Group 'A' posts while at the same time excluding the post held by the petitioner, namely, Senior Research Officer (Printing). He submitted that if those two posts could be included in the category of Scientific Group 'A' posts, there cannot be any justification for excluding the post held by the petitioner from that category. This, he asserts, is discriminatory in character. He also submitted that this possibly has been done by invoking Rule 15 of the new Rules which provides for relaxation.

The respondents have not taken the stand that there is any relaxation made in favour of those two posts.

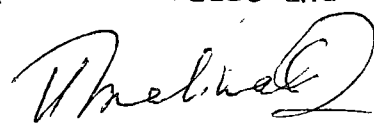
14

What they have stated is that these two posts were regarded as Scientific Group 'A' posts before the new Rules came into force and that, therefore, the status being enjoyed by them earlier has been continued even after coming into force of the new Rules.

4. We find on a perusal of the Recruitment Rules governing the appointment to the post of Senior Research Officer (Printing) that the said post was not regarded as Scientific Group 'A' post. It was regarded as isolated post in the sense that it could not have been included in the general category of Scientific Group 'A' posts. This becomes clear when we look at the rules governing the post held by the petitioner, title of which reads "Forest Research Institute and Colleges, Dehradun (Isolated Group 'A' & Group 'B' Posts) Recruitment Rules, 1979." The use of the expression 'Isolated Group 'A' & Group 'B' Posts' is significant. It is because the post of Senior Research Officer (Printing) could not be included in the general category of Scientific Group 'A' posts it had to be treated as an independent post; special rules called Isolated Group 'A' and Group 'B' Posts Recruitment Rules were made governing this and similar posts. It is, therefore, clear that before the new Rules came into force under the then existing scheme there were Scientific Group 'A' posts and there were isolated posts like that of the Senior Research Officer (Printing). The pattern shows that the isolated Group 'A' posts like that of the Senior Research Officer (Printing) were not regarded as Scientific Group 'A' posts before the new Rules came into force.

When the new Rules came into force, the earlier pattern that existed has been reflected in the new Rules. No change between the relationship between the isolated Group 'A' posts and Scientific Group 'A' posts has been brought about by the new Rules. Historically, it is clear that the post of Senior Research Officer (Printing) was regarded as isolated Group 'A' post and not as a Scientific Group 'A' post. All that has been done under the new Rules is to treat all the Scientific Group 'A' posts before the new Rules came into force as Scientific Group 'A' posts under the new Rules. So far as the isolated Group 'A' posts like that of the Senior Research Officer (Printing) are concerned, they have remained untouched. The reason is obvious that it could not be mingled with the general category of Scientific Group 'A' posts. So far as the posts of Publicity and Liaison Officer and Transportation Officer are concerned, they were regarded as Scientific Group 'A' posts before the new Rules came into force and that is the reason why they continued to be categorised as Scientific Group 'A' posts under the new Rules. No change has been brought about. Whatever was the existing position has been continued. The pattern that existed historically has not been altered. We, therefore, see no good grounds to take the view that exclusion of the post of Senior Research Officer (Printing) from the category of Scientific Group 'A' posts is in any manner discriminatory or violative of Article 14 and 16 of the Constitution. Hence, this petition fails and is dismissed. No costs.


(S. R. Adige)
Member (A)


(V. S. Malimath)
Chairman