

6

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

D.A.No.645 of 1988

Date of decision: 20.11.91

All India Association of Inspectors and Asstt. Supds. of Post Offices and Another

...Applicants

Shri Sant Lal

...Counsel for the applicants

V/s

Union of India

...Respondent

Shri P.H.Ramchandani

...Counsel for the respondent

CORAM:

THE HON'BLE MR. JUSTICE RAM PAL SINGH, VICE CHAIRMAN
THE HON'BLE MR. I.P.GUPTA, ADMINISTRATIVE MEMBER

J U D G E M E N T

(Delivered by Hon'ble Mr. I.P.Gupta, Administrative Member)

In this application, filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant-association represents the cadre of Inspectors, Asstt. Supds. of Post Offices in the country having Circle Branches in all postal circles. It is averred that the association is recognised by the Ministry of Communication (Department of Posts) under the Recognition Rules, 1959.

2. The applicant has quoted the following rules from PET Manual Vol.IV:

Rule 272(B)(2):

"In the Post Office half of the posts in the Higher Selection Grade in the General Line (i.e. excluding Asstt. Supds.) are filled by promotion from the line of Inspectors of Post Offices and Head Clerks to the Supds of Post Offices and half by promotion from the General Line of Lower Selection Grade II in order of seniority subject to fitness....."

3. The applicant states that in pursuance of the provisions of the said Rules, the Inspectors of Post Offices including Head Clerks used to be promoted to the Higher Selection Grade Posts in the General Line of the Post Offices to the extent of 50%.

4. As a result of the recommendations of the III Pay

...2...

Commission accepted by the Government, the Higher Selection Grade I (HSG.I) in the Post Offices was split into Higher Selection Grade I(HSG.I) and Higher Selection Grade II(HSG.II) during 1973. The allocation of posts of both HSG.I and II on the basis of 50:50 continued between Inspectors Line and the General Line staff.

5. The P&T Board, by their letter dated 21.3.1979, decided that HSG-II posts hitherto being shared by IPO Line and General Line officials in the ratio of 50:50 will hereafter be exclusively reserved for General Line officials. HSG.I posts, will, however, continue to be shared by the IPO Line and the General Line officials on 50:50 basis.

6. In order to compensate the Inspectors of Post Offices (IPOs) for the loss to the IPO Line in their avenues of promotion, the P&T Board ordered that the posts of Inspectors should be upgraded to that of Asstt. Superintendents to the extent of HSG.II posts surrendered to the General Line.

The P&T Board also ordered by their letter dated 22.11.79 that whenever extra posts of HSG.II are sanctioned in the Circles, Additional Sub Divisions, upto 50% of the new HSG.II posts may be upgraded to the APS Cadre on ad hoc basis on the line of orders contained in their letter dated 21.3.79.

It was further ordered that ad hoc upgradation of posts of Inspectors/Head Clerks ^{against} ~~might not be adjusted against~~ future vacancies arising in the cadre of Asstt. Supdts. of Post Offices, ~~might not be adjusted.~~ ^{not}

7. The applicant contends that the Ministry of Communication by their letter dated 15-4-87 accorded sanction of creation of 282 posts of HSG.II by abolishing the same number of LSG posts. The applicant further contends that in pursuance of the aforesaid orders, 142 posts of HSG.II have since been created and the remaining posts are in the process of their creation.

8. The applicant's association represented to the concerned authorities for upgradation of the posts of IPOs to those of Asstt. Supdts. to the extent of 50% of the newly sanctioned HSG.II posts in pursuance of the orders issued by the P&T Board on 22.11.79 but the representations have been rejected.

9. The applicant has requested for setting aside the letter dated 22.12.87 of the respondents saying that 282 posts of LSG were upgraded to HSG.II posts which are non-standard posts and the upgradation was agreed to on a matching saving basis. The applicant has also requested for directing the respondents to upgrade the posts of IPOs to Asstt. Supdts. to the extent of 50% of the newly sanctioned posts of HSG.II.

10. The case of the respondents is that the upgradation of posts etc. is done by the administrative authorities in accordance with the administrative need and the Tribunal should not interfere in regard to the question of upgradation of posts or determining the number of posts to be upgraded. The learned counsel for the respondents also brought out that upgradation of 364 posts of IPOs was agreed to after taking into account the revised liberal norms evolved by IWSU and the relevance of the orders dated 22.11.79 ceased to exist. However, due to imposition of ban for creation of posts, these posts could not be created/upgraded without matching savings. Further, Rule 272(B)(2) are not rules framed under Article 309 of the Constitution and they are ~~not~~ in the nature of administrative orders and, therefore, could be altered or amended by administrative orders. Still further, the posts of HSG.II upgraded are non-standard and ad hoc and the savings for creating these posts were provided by abolishing the posts of Postal Assistants belonging to the General Line.

...5...

11. Analysing the points raised by the respondents, it may be mentioned that even if Rule 272(B)(2) are not specifically said to be the rules framed under Article 309 of the Constitution, yet they are statutory in nature and cannot be brushed aside lightly. It is also true that Rules cannot be altered unilaterally by Government as observed in the case of Roshan Lal Tonden Vs. Union of India (AIR 1967 SC 2 1889). Further one has a right to be considered for promotion but not a right for promotional avenues as such. Yet the fact remains that there is no averment on record to indicate that the said Rule 272(B)(2) has been amended. In the absence of any amendment, the Rules will prevail. When the Higher Selection Grade was split into HSG.I and II, a clear undertaking was given by the Department in their letter dated 22.11.79 that whenever extra posts of HSG.II are sanctioned in the Circle, Additional Sub Divisions upto the extent of 50% of the new HSG.II posts may be upgraded to ASP Cadre on ad hoc basis on the lines of orders contained in the OM of 21.3.79.

12. Therefore, keeping in view the needs of economy and the availability of matching savings, the respondents (Official Departments) are directed to consider upgrading the posts of Inspectors of Post Offices to Asstt. Supdts. to the extent of 50% of newly sanctioned posts of HSG.II in accordance with their orders of 21.3.1979, and 22.11.79 unless 361 posts of IPOs agreed to be upgraded on recommendation of IWSU clearly showed that accommodation of 50% of newly sanctioned posts of HSG.II had been made therein. This consideration should be completed within a period of four months from the date of receipt of a copy of this Order.

The application is disposed of with the aforesaid direction with no order as to costs.

(Signature)
(I.P.GUPTA)
MEMBER (A) 20/11/91

(Signature) 25.11.91
(RAM PAL SINGH)
VICE CHAIRMAN