

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, DELHI.

Regn. No. C.A. 119/1988.

DATE OF DECISION: May 17, 1990.

Kashmir Singh ..... Applicant.  
Shri H.N. Verma ..... Counsel for the Applicant.  
V/s.  
Union of India ..... Respondent.  
Shri P.P. Khurana &  
Shri Arun Sharma ..... Counsel for the Respondents.

CORAM: Hon'ble Mr. G. Sreedharan Nair, Vice Chairman.  
Hon'ble Mr. P.C. Jain, Member (A).

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.*

*P.C.*  
(P.C. JAIN)  
MEMBER (A)

*G.S.*  
(G. SREEDHARAN NAIR)  
VICE CHAIRMAN.

12

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, DELHI.

Regn. No. O.A. 119/1988.

DATE OF DECISION: May 17, 1990.

Kashmir Singh ..... Applicant.  
Shri H.N. Verma ..... Counsel for the Applicant.  
V/s.  
Union of India ..... Respondent.  
Shri P.P. Khurana & ..... Counsel for the Respondent.  
Shri Arun Sharma

CORAM: Hon'ble Mr. G. Sreedharan Nair, Vice Chairman.  
Hon'ble Mr. P.C. Jain, Member (A).

(Judgement of the Bench delivered  
by Hon'ble Mr. P.C. Jain, Member)

JUDGEMENT

The applicant herein has assailed Department of Personnel & Training Memo dated 6.1.1988 (Annexure A-7), wherein he was informed that the orders contained in the Department of Personnel & Training (PP Division) O.M. No.19/1/86-PP, dated 14.8.1987 (Annexure A-2) cannot be made applicable to the Research Cadre in the Department of Personnel, as this Cadre is not a Central Group 'A' Service and the Cadre contains isolated posts and do not constitute a Service. He has prayed for issue of a direction to the respondent<sup>Cu.</sup> to appoint him to the post of Joint Director Selection Grade with all consequential benefits with effect from 1.4.1986.

2. The relevant facts, in brief, are that the applicant joined as a Research Officer in the Department of Personnel and Training on 29.4.1972, on the recommendations of Union Public Service Commission. He was promoted as Senior Research Officer and then as Joint Director, which post is in the Junior Administrative Grade and which he was holding since 7.11.1985. He has set up a case that in accordance with the orders issued in Office Memorandum dated 14.8.1987 (Annexure A-2), the cadre of Research Officers in the Department of Personnel & Training is entitled to creation of a post of non-functional Selection

*Cu.*

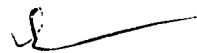
*e*

Grade and he is eligible to hold such a post as Joint Director with effect from 1.4.1986, but his request has been rejected vide Memo dated 6.1.1988 (Annexure A-7) for wrong reasons.

3. The background of the case is that the Third Pay Commission had recommended introduction of Selection Grade of Rs.2000-2250 in the Organised Engineering Services, which was to be admissible to the officers who had reached the stage of Rs.2,000 in the Junior Administrative Grade or Intermediate Administrative Grade as the case may be and stayed at the maximum for a period of two years. The number of Selection Grade posts was to be periodically determined after a detailed review of the cadre structure of the various Engineering Services. This recommendation was accepted by the Government. The Government also accepted at the same time, in principle, the provision of a Selection Grade for various other Group 'A' (Class-I) Central Services (Ministry of Finance Resolutation dated 1-5-1974). The guidelines and the criteria for introduction of a non-functional Selection Grade in the Organised Group 'A' Central Services were spelt out in the Department of Personnel & Administrative Reforms (Policy Planning Division) Office Memorandum dated 31.7.1982. The Fourth Central Pay Commission, in para 23.12, Part I, of their Report, made the following recommendations: -

"23.12. In order to meet the aspirations of the members of the group 'A' services and having regard to their role and functions, we have considered it necessary to provide some higher level posts in these services and to improve the pay scales. We further recommend that in respect of the group 'A' central services, the present condition regarding stagnation at the maximum of the junior administrative grade for two years for promotion to the selection grade, should be removed. We are of the view that the criteria for promotion to the selection grade and the basis for computing the

Clean



number of selection grade posts should be uniform in the all-India and group 'A' central services. Our recommendations in regard to specific posts, after taking into account all relevant factors, are indicated in the chapters on the respective ministries/departments. "

On these recommendations, Department of Personnel & Training (PP Division) issued orders in Office Memorandum dated 14.8.1987. According to this O.M., it was decided "that in all Group 'A' Central Services the number of posts in the Selection Grade shall be equal to 15% of the senior duty posts (i.e. all duty posts at the level of Senior Time Scale and above in the Cadre)." An officer appointed to the Junior Administrative Grade was to be granted Selection Grade if he satisfied the conditions prescribed in paragraphs 3 and 4 of the O.M. *ibid.* According to para 3, appointment to the Selection Grade in Group 'A' Central Services, is to be made by selection on merit with due regard to seniority, and according to para 4, no member of the Service shall be eligible for appointment to the Selection Grade until he has entered the fourteenth year of service on the 1st July of the year calculated from the year following the year of examination on the basis of which the member was recruited. In para 6 of the said O.M., it is stated that "This supersedes instructions contained in this Department's O.M. No.5/12/79-PP-II, dated the 31st July, 1982. Accordingly the condition regarding stagnation at maximum of Junior Administrative Grade for two years for promotion to Selection Grade contained therein, is hereby removed."

4. The case of the applicant is that the posts of Research Officer, Senior Research Officer and Joint Director (Research & Training) in the Department of Personnel & Administrative Reforms are classified as General Central Service Group 'A' Gazetted as per column 3 of the Department of Personnel & Administrative Reforms

*C. C.*

*[Signature]*

(Research Officer (Class I) Recruitment Rules, 1973 notified on 5th June, 1973, the Senior Research Officer (Department of Personnel & Administrative Reforms) Recruitment Rules, 1983 notified in December, 1983, and the Joint Director (Research and Training)(Department of Personnel and Administrative Reforms) Recruitment Rules, 1981 notified on 30th September, 1981 respectively. Further, as per Rule 7 of C.C.S. (CCA) Rules, 1965, Central Civil Central posts of any class not included in any other/Civil Service, shall be deemed to be included in the General Central Service of the corresponding class and a Government servant appointed to any such post shall be deemed to be a member of that Service unless he is already a member of any other Central Civil Service of the same class. It is also pleaded that in the Schedule to the C.C.S. (CCA) Rules, General Central Service, Group 'A', is included in the list of Central Civil Services, Group 'A'. According to F.R. 9(4), cadre means the strength of a Service or a part of a Service sanctioned as a separate unit. The respondents, in para 3 of their reply, have stated that the research cadre of the Department of Personnel & Training had only 10 posts in Group 'A' as detailed below: -

Joint Director (Rs.3700-5000)	-	1
Senior Research Officer (Rs.3000-4500)	-	5
Research Officer (Rs.2200-4000)	-	4

In view of this admission of the respondents also, the applicant claims to be included <sup>in</sup> Group 'A' of Central Civil Service as he is a part of the cadre and the cadre is defined to be a Service or part of a Service sanctioned as a separate unit. The applicant, therefore, has pleaded that he is entitled to the benefits of O.M. dated 14.8.1987.

5. The case of the respondents, in brief, is that one of the essential attributes of a Group 'A' Service is that recruitment to the Junior Time scale of the Service is

*Cover*

*[Handwritten signature]*

made at least to the extent of 50% by direct recruitment through competitive examination/selection by the UPSC, but direct recruitment in the case of posts in the Research cadre of the Department of Personnel & Training is only to the posts of Research Officer and that too to the extent of 25 per cent. The Research cadre is stated to be not a Central Group 'A' Service by itself and it has been clubbed with the others under the heading of "General Central Service". It is also stated that the Fourth Central Pay Commission "intended the recommendation (of 15% Senior Duty Posts to be operated at Selection Grade) to apply to those organised services only to which the benefit of conversion of the 20% of Junior Administrative Grade level posts into selection posts was available under the orders obtaining before the issue of the O.M. dated 14th August, 1987" and in para 5 of the orders dated 31.7.82, it was stipulated that the guidelines would be applicable to Organised Group 'A' Central Services as mentioned in Annexure 'A' of the said O.M. Orders dated 14.8.1987 are stated to apply only to such of the Services as had been covered by the earlier orders dated 31.7.1982. As the Research Cadre is not covered by the earlier orders, the question of application of the orders dated 14.8.1987 to them does not arise. Intention to grant Selection Grade was to remove stagnation in Central Group 'A' Services and such a situation does not exist in the Research Cadre. The allegations of denial of justice and violation of Articles 14, 16 and 309 of the Constitution of India are also refuted.

6. We have gone through the material on record and have also heard the learned counsel for the parties.

7. It may be stated at the outset that there is nothing in the recommendations of the Fourth Central Pay Commission to indicate that the recommendation made by them in para 23.12 in Chapter 23 of Part I of their Report

*C. S. S.*

*[Signature]*

was intended only for members of the Organised Central Civil Services Group 'A'. We have already reproduced above the relevant recommendation of the Commission. Similarly, there is nothing to substantiate the contention of the respondents that the orders in O.M. dated 14.8.1987 which have been issued in pursuance of the recommendations of the Fourth Central Pay Commission *ibid*, are to apply only to members of the Organised Group 'A' Central Services, as was the position in the orders issued on 31.7.1982. In fact, para 6 of the O.M. dated 14.8.1987 clearly states that this (means this O.M.) supersedes instructions contained in C.M. dated 31.7.1982.

8. In view of the provisions of F.R. 9(4) and of Rule 7 of the C.C.s. (CCA) Rules, 1965, along with Schedule thereof, as also the description of posts in the Recruitment Rules quoted above, there is no scope for any doubt that the Research Cadre of the Department of Personnel and Administrative Reforms is a part of General Central Service Group 'A' and that this Service is included in the list of Central Civil Services, Group 'A'. Thus, we are of the clear view that the recommendations of the Fourth Central Pay Commission and the order issued in pursuance thereof in the O.M. dated 14.8.1987 are applicable to the General Central Service Group 'A'. The respondents have not filed anything in support of their contention in regard to the alleged "essential attributes of a Group 'A' service" in so far as it states that at least 50% of the posts of Junior Time Scale are filled by direct recruitment. The applicant has stated in his rejoinder that he "is entitled to the Selection Grade, like the TRC Service, Indian Salt Service or Central Legal Service (referred to in para 8.53 of the Commission's Report), which are neither organised nor large like the applicant's service."

*View*



9. However, there are certain other aspects which need to be discussed. It is common knowledge that for a Service, there is one set of recruitment rules. We have not been shown that there are any recruitment rules as such for all posts included in the General Central Service Group 'A'. In the case before us, for the three posts in the so-called Research Cadre of the Department of Personnel & Administrative Reforms, there are three separate Recruitment Rules. In view of the provisions of Rule 7 of the C.C.S. (CCA) Rules, 1965 (supra), there would be a large number of Group 'A' posts which are not included in any other Central Civil Service and thus shall be deemed to be included in the General Central Service Group 'A'. The recruitment rules for such posts and the hierarchy in respect of those posts in various Ministries/Departments/Organisations may also be different. The recommendations of the Fourth Central Pay Commission and the orders issued by the Government in pursuance thereof cannot reasonably be interpreted to equally apply to all segments of posts included or deemed to be included in the General Central Service Group 'A'. This, however, does not mean that if a cadre of posts included in the General Central Service Group 'A' has reasonable number of Senior Duty Posts in that Cadre, the benefit of introduction of non-functional Selection Grade @ 15 per cent of the Senior Duty Posts ~~and above~~ be not considered for application to those cadres. While doing so, obviously, the number of posts, the existing avenues of promotion etc., would need to be considered.

10. As regards the case before us, as discussed above, non-functional Selection Grade did not exist in the Research Cadre of the Department of Personnel & Administrative Reforms. In the absence of existence of a Selection Grade post, the applicant has no right to be considered for promotion to such a post and he is not entitled to the relief prayed for in this application. The respondents

Clean

2

are, however, directed to examine and decide within a period of four months from the date of receipt of a copy of this order as to in respect of which cadres of posts included in the General Central Service Group 'A', the benefit of non-functional Selection Grade, in the light of the orders issued by them in O.M. dated 14.8.87, would be granted. The application is disposed of accordingly. Parties to bear their own costs.

*(P.C. JAIN)*  
(P.C. JAIN)  
MEMBER(A)  
17/5/1990

*(G. SREEDHARAN NAIR)*  
(G. SREEDHARAN NAIR)  
VICE CHAIRMAN.  
17.5.1990

17.5.1990.