

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn. No. OA-291/86

Date of decision: 07.07.1992

Shri Jagdish Kumar & Others Applicants

Versus

Chief Secretary, Delhi Respondents
Administration & Ors.

For the Applicants None

For Respondent No. 1 Smt. Avnish Ahlawat, Counsel

For Respondents 2-5 Shri G.R. Matta, Counsel

CORAM:

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

The Hon'ble Mr. I.K. Rasgotra, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgment? *Yes*

2. To be referred to the Reporters or not? *Yes*

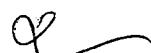
(Judgement of the Bench delivered by Hon'ble
Mr. P.K. Kartha, Vice-Chairman)

The three applicants before us as well as respondents 2-5 have worked as Statistical Officers in the Delhi Admn.

The applicants have prayed for quashing the impugned order dated 31.3.1986, whereby the respondents decided to terminate their ad hoc appointments to the posts of Statistical Officer/ Industrial Survey Officer in the scale of Rs. 650-1200 with effect from the said date. They have also sought for a direction to the respondents to promote and confirm them as Statistical Officers.

2. This application had appeared in the cause list as one of the cases peremptorily fixed for hearing on 29.5.1992, when learned counsel for the respondents were heard and the case was made part-heard. When the case was called on 4.6.1992, none appeared for the applicants, but the learned counsel for the respondents were present. We have also gone through the records of the case carefully. Applicant No.1 has worked as a U.D.C. from 1959 to 1964, when he was promoted as Inspector/ Statistical Assistant. He was further promoted as Research Officer in 1962 and was again promoted as Statistical Officer w.e.f. 6.9.1983 on an ad hoc basis. Applicant No.2 joined service as Statistical Assistant in 1964. He was promoted as a Research Officer w.e.f. 6.9.1983 on ad hoc basis. Applicant No.3 was initially appointed as Medical Records Technician in 1962. He was promoted as Statistical Assistant in 1966 as Research Officer in 1976 and as Statistical Officer, on 6.9.1983 on ad hoc basis. Their ad hoc appointments were made pursuant to the recommendations of the Departmental Promotion Committee.

3. According to the relevant recruitment rules which were made in 1979, there are 7 posts of Statistical Officer in the scale of Rs. 650-1200. It is a selection post. The post is to be filled up by promotion to the



extent of $66\frac{2}{3}$ per cent, failing which by direct recruitment, and $33\frac{1}{3}$ per cent by direct recruitment.

Research Officers with three years' service in the respective grade rendered after appointment thereto on a regular basis, are eligible for promotion.

The promotion is to be made on the basis of the recommendations of the D.P.C. Consultation with the U.P.S.C. is necessary while making direct recruitment.

4. The applicants have worked as Statistical Officers on ad hoc basis from 6.9.1983 to 31.3.1986.

5. The recruitment rules of 1979 stipulate that while the qualification regarding age is not applicable in the case of promotees, the educational qualifications prescribed for direct recruitment would apply to them.

The educational qualifications prescribed are : A Master's Degree in Statistics/Operation Research, or M.A.(Economics)/Commerce (with Statistics as a subject) of a recognised university or equivalent. The recruitment rules also contain a note to the effect that the qualifications are relaxable at the discretion of the U.P.S.C. in the case of candidates otherwise well-qualified.

6. The applicants have contended that the respondents should have relaxed the rules as regards the prescribed educational qualifications in their case and regularised them in the posts of Statistical Officer/Industrial Survey Officer. They have referred to the administrative



instructions issued by the Department of Personnel & Administrative Reforms in 1979, according to which, educational qualifications are not generally insisted upon in the case of promotion to the posts of non-technical nature. They have further stated that the respondents had initiated steps to amend the recruitment rules so as to dispense with the prescription of educational qualifications in the matter of promotion and have referred to the relevant correspondence between the Delhi Administration and the U.P.S.C. on the subject.

7. Admittedly, the recruitment rules have not been formally amended. The U.P.S.C. also have not agreed to relax the rules in favour of the applicants. As against this, respondents 2-5 fulfil the prescribed educational qualifications for promotion to the posts for which the applicants are aspiring.

8. The respondents have contended that the reversion of the applicants in the above background cannot be called in question by the applicants. The applicants were appointed on ad hoc basis pending the amendment of the recruitment rules, but the same has not taken place though the U.P.S.C. had eventually agreed to the same in 1986. The learned counsel for the respondents stated at the Bar that no formal amendment of the recruitment

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rules has been made. In any event, any vacancy which had arisen before the amendment of the recruitment rules, will have to be filled up in accordance with the recruitment rules then in existence and not in accordance with the amended rules. They have also stated that the reversion of ineligible persons to make room for eligible persons does not amount to reduction in rank within the meaning of Article 311 of the Constitution.

9. Admittedly, the applicants could not have been promoted to the posts of Statistical Officer on a regular basis otherwise than in accordance with the recruitment rules of 1979. They did not fulfil the educational qualifications prescribed for such promotion. The Delhi Administration have, however, stated in their counter-affidavit that applicant No. 2 (Shri M.L. Bhatia) alone can be fitted in as per the relaxed standards of educational qualifications and not the other two applicants.

10. In our view, the reversion of the applicants does not amount to reduction in rank or any penalty. According to the Explanation IV (under Rule 11 of the C.C.S.(CCA) Rules, 1965) reversion of a Government servant officiating in a higher service, grade or post, to a lower service, grade or post on the ground that he is considered to be unsuitable for such higher service, grade or post, or on any administrative ground unconnected with his conduct, does not amount to a penalty.

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11. The Tribunal cannot give direction to the respondents to relax the rules in favour of the applicants. It cannot also direct the respondents to amend the rules in a particular manner. These are matters to be decided by the competent authorities and no writ can run in such matters.

12. In the light of the foregoing, we see no merit in the present application and the same is dismissed. There will be no order as to costs.

S. K. Rasgotra
(S. K. Rasgotra)
Administrative Member

Partha
7/7/92
(P. K. Kartha)
Vice-Chairman (Judl.)