

CENTRAL ADMINISTRATIVE TRIBUNAL
DELHI.

Application No. OA 104 of 1986.

Shri N.D.Chatterji }
Shri K.K.Bharadwaj } through In person.

Versus

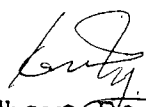
Secretary,
Ministry of Personnel and Training,
Administrative Reforms and Public Grievances and Pension, through None .
North Block, New Delhi

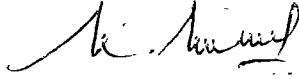
Coram:

Shri Justice K.Madhava Reddy, Chairman.

Shri Kaushal Kumar, Member.

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| 1. | Whether Reporters of local papers may be allowed to see the judgment? | <u>No</u> |
| 2. | To be referred to the Reporter or not? | <u>No</u> |
| 3. | Whether to be circulated to all Benches? | <u>No</u> |
| 4. | Whether fair copy to be typed for perusal? | <u>No</u> |


(K.Madhava Reddy)
Chairman 26.2.1986.


(Kaushal Kumar)
Member 26.2.1986.

CENTRAL ADMINISTRATIVE TRIBUNAL
DELHI.

REGN. NO.OA 104/86.

Dated: 26th February, 1986.

1. Shri N.D.Chatterji } Petitioners.
2. Shri K.K.Bharadwaj }

Versus

Secretary,
Ministry of Personnel and Training,
Administrative Reforms and Public
Grievances and Pension,
North Block, New Delhi. ...

Respondent.

CORAM:-

Shri Justice K.Madhava Reddy, Chairman.

Shri Kaushal Kumar, Member.

For petitioners ... In person.

For respondent ... None.

(Order of the bench delivered by Shri Justice
K.Madhava Reddy, Chairman)

The petitioners herein seek the "full implementation"

of Office Memorandum No.16/8/82-CS(I) dated 18th September, 1984
issued by the Govt. of India, Ministry of Home Affairs,

Department of Personnel and Administrative Reforms, New Delhi,

and to stop diversion of the vacancies of the Under Secretaries
by appointing the deputationists from other services, and to

bring out the panel of the Under Secretaries on the 1st July
of every year as envisaged in the C.S.S. scheme. The main

grievance of the petitioners is that under this scheme, 60 posts
of Desk Officers/Section Officers were upgraded to the level of
Under Secretary in order to relieve the stagnation of the

Section Officers who initially joined the service as direct
recruit Assistants on the basis of the Assistants' Grade Open

Competitive Examinations held in the years 1955 and 1957. It
is their claim that this Scheme ought not to have been limited
to a period of one year but should have been continued year

after year and as and when the officers appointed under the
scheme as Under Secretaries on an ad-hoc basis are subsequently

appointed on regular basis consequent upon their inclusion in
the Gradation List for the posts of Grade I of CSS, equivalent

number ~~xxxxxx~~ should have been upgraded, the posts should not

have been declared as downgraded automatically with effect from
the date of expiry of the period as stated in clause (d) of

para 3 of the Office Memorandum dated 18.9.1984.

2. The decision taken in the Office Memorandum referred to above is a policy decision. It was issued to relieve the stagnation. Having regard to the administrative exigencies, only 60 posts were decided to be upgraded to the level of Under Secretaries. In order that persons may not be upgraded indiscriminately, certain principles were enunciated. It is not the case of the petitioners that the 60 officers who got the benefit of this upgradation did not satisfy the criteria. In fact they are all seniors to the petitioners. The petitioners' only grievance is against the clause (d) of para 3 of the said Office Memorandum which directs:

"The upgraded posts will stand downgraded automatically with effect from the date of expiry of the period as stipulated in item (c) above."

Whether certain posts should be upgraded and if so, how many and for what period is a matter of policy. The Government in its administrative discretion had taken a decision to upgrade the posts and having regard to all relevant circumstances had chosen to upgrade only 60 posts in a particular year. That does not vest any right in the petitioners to claim that year after year the same number of posts should be made available till all the Assistants of 1955 and 1957 batch get the benefit of upgradation. When these 60 upgraded posts have been filled in accordance with the principle enunciated in the policy decision, the petitioners cannot complain of any discrimination.

Whether any or all the posts should continue to be upgraded and if so, should they be continued year after year or not is again a matter of policy. No Court or Tribunal can compel the respondent to continue the upgradation of posts or increase the number of posts and give the benefit of upgradation to all the members recruited in any particular year. The Office Memorandum which gives the benefit of upgradation has to be viewed as whole; some of the terms cannot be enforced ignoring the others. If the conditions laid down in clauses (a), (b), (c), (e) and (f) are valid, clause (d) cannot be struck down because it is an integral part of the scheme. No question

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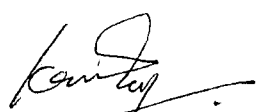
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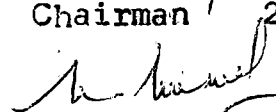
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of discrimination or arbitrariness arises.

3. We find no merit in this petition. It is accordingly dismissed.


(K. Madhava Reddy)
Chairman 26.2.1986.


(Kaushal Kumar)
Member 26.2.1986.