

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

REGN. NO. D.A. 1499/87.

DATE OF DECISION: 10.2.1993.

Dr. Jogeshwar Mahanta. ... Petitioner.

Versus

Union of India & Ors. ... Respondents.

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

For the Petitioner. ... None.

For the Respondents. ... Shri N.S. Mehta,
Sr. Standing Counsel.

JUDGEMENT (ORAL)

(By Hon'ble Mr. Justice V.S. Malimath,
Chairman)

The petitioner was not present when the case was taken and none appeared for him. Shri N.S. Mehta, Sr. Standing Counsel, was present on behalf of the respondents. As this is a very old matter, we consider it proper to peruse the records, hear the learned counsel for the respondents and dispose of the case on merits.

2. The petitioner, Dr. Jogeshwar Mahanta, has sought two prayers:

(i) That the selection and appointment of Dr. B.N. Chatteraj, Respondent No.4 as Professor(Criminology and notification to that effect (Annexure-1) be quashed;

(ii) That the services of the petitioner be regularised in the post of Professor(Criminology) as promotee of which he is holding the additional charge from 30.3.1985 till date and he be paid the pay and allowances attached to this post together with

✓ interest @ 12% per annum.

3. The post of Professor of Criminology became vacant whereupon the petitioner was asked to be the incharge of other duties subject to certain limitations as per order dated the 23rd March, 1985 (Annexure 7). It is clear from the perusal of that order that the post of Professor of Criminology became vacant on the incumbent Dr. Shukla being selected for appointment in the Indian Institute of Public Administration. The order says that the petitioner who is a Reader in Psychology will look after the duties of Reader (Sociology) and other official work which was being attended to by Dr. Shukla except the work relating to the publication of the Indian Journal of Criminology and Criminalistics. Dr. (Mrs.) Sanyal, Lecturer has been directed to be ~~the~~ incharge of the work relating to the publication of the Indian Journal of Criminology and Criminalistics and she was asked to receive the relevant records pertaining to the subject from Dr. Shukla. Annexure 6 makes it clear that this order was given effect to and the relevant files were also handed over to the petitioner by Dr. Shukla. The post of Professor of Criminology was filled up by appointing Respondent No.4, Dr. B.N. Chattaraj, Deputy Director (Training), National Institute of Social Defence, New Delhi, vide order dated 10.1.1986 published in the Gazette of India dated 8.2.1986. It is in this background that the petitioner has approached this Tribunal for reliefs, as aforesaid.

4. So far as the challenge to the appointment of Respondent No. 4 to the post of Professor of Criminology is concerned, the petitioner has raised two contentions, one is that he should be promoted to the said post and the second is that the appointment of Respondent No. 4 is vitiated by bias.

5. The rules regulating this post which have been produced in this case as Annexure 4 show that the post can be filled up either on transfer on deputation or on short term contract basis. There is no provision for filling up the post by promotion. Hence, it is obvious that the petitioner's prayer for a direction to consider this case for promotion to the post of Professor of Criminology cannot be granted. So far as appointment by transfer on deputation is concerned, it is clear from the statement filed in this case that the name of the petitioner was also before the UPSC and was duly considered. Respondent No. 4's candidature was preferred and he was duly appointed by transfer on deputation. It is, therefore, not possible to assail the appointment of Respondent No. 4 either.

6. So far as the allegation of bias is concerned, it is averred by the petitioner that the Director of Institute of Criminology and Forensic Science is biased against him and he has influenced the selection committee. These allegations have been denied in the reply. No material to

substantiate the assertion of the petitioner in this behalf has been produced. Besides, it is necessary to note that the stand taken by the respondents is that the Director was not a member of the selection committee, he went only as a departmental representative and did not participate in any manner with the selection process. There is no good reason to disbelieve the version of the respondents in this behalf. Hence, it is not possible to accede to the contention that the appointment of Respondent No. 4 is vitiated by bias.

7. Another contention of the petitioner is that he should be paid the emoluments, which are attached to the post of Professor (Criminology), for the period he held the additional charge of that post. The petitioner does not rely upon any rules or orders on the strength of which he can claim such relief. However, he has pleaded that in the similar circumstances Dr. Shukla was paid the emoluments during the period he held the charge of additional post. These averments of the petitioner have been denied in paragraph 6.1 of the reply in which it is stated that Dr. Shukla was given the emoluments of the post of Professor (Criminology) only from the date of his regular appointment to that post i.e. w.e.f. 17.11.1984. It is further stated that no additional emoluments were paid to him for the earlier period during which he held additional charge of the post of Professor of Criminology. Hence, it is not possible to accede to the contention of the petitioner that he has been discriminated against either.

8. For the reasons stated above, this petition fails and is dismissed. No costs.

Infelice
(S.R. ADIGE)
MEMBER(A)

'SRD'
110293

V. Malimath
(V.S. MALIMATH)
CHAIRMAN