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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, PRINCIPAL BENCH.

Regn. No. OA 348 of 1987

Date of decision: 30.01.92

Shri S.D. Shukla & Another

...Applicants

Vs.

Union of India & Others

...Respondents

For the Applicants

...Shri M. Chandrasekhar
Counsel

For the Respondents

...Shri P.H. Ramchandani
Sr. Counsel

CORAM:

THE HON'BLE MR. P.K. KARATHA, VICE CHAIRMAN(J)

THE HON'BLE MR. B.N. DHOUNDIYAL, 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

JUDGMENT

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

The applicants who are working as Senior Inspecting Officers in the Ministry of Food and Supplies filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying for the following reliefs:-

"(i) declaring that the one post of Deputy Director (F&V) out of the two posts advertised for direct recruitment through Union Public Service Commission vide advertisement No.46 Item No.3 dated 29.11.1986 is meant for departmental promotee and should not be filled by direct recruitment; or

(ii) in the alternative, direct the respondents that one vacancy which, according to the respondents, arose

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by appointment of Shri Desai, should be filled up by direct recruitment as if in 1979 or 1980, after calling the applicants also for interview".

2. The applicants were selected by the UPSC for appointment as Senior Inspecting Officers and are working as such. There are 18 posts of Senior Inspecting Officers and 5 posts of Deputy Director(Fruit and Vegetable Preservation) in the next higher grade. According to the relevant recruitment rules 50% of the posts of Deputy Director is to be filled by promotion and 50% by direct recruitment. Senior Inspecting Officers (Fruit and Vegetable Preservation) with 5 years in service are eligible for promotion.

3. The respondents filled up the post of Deputy Director in the ratio of 1:1 till this was disturbed in 1980 as

indicated below:-

"	Name	Method of Recruitment	Date of Vacating post	Remarks
1.	B.S. Sood	Promotee		Retired
2.	M.L. Bhatia	Direct Recruitment		Retired
3.	R.L. Uppal	Promotee		Retired
4.	O.P. Gera	Direct Recruitment	16.7.73	Continuing
5.	R.N. Ghosh	Promotee	3.9.75	Retired
6.	Ms. R. Susheela	Direct Recruitment	29.8.79	Retired
7.	P.N. Mahkad	Promotee	26.2.80	Continuing
8.	A.S. Desai	Promotee	26.2.80	Continuing"

4. Shri A.S. Desai was appointed in a vacancy which should have gone to a direct recruitment according to the roster. The respondents have stated in their counter-affidavit that on 30.6.1977, Shri B.S. Sood went on deputation to the Fruit



Juice Bottling Plant. The vacancy caused by his deputation being a short-term vacancy could not, be filled up by direct recruitment even though it was against the direct recruitment quota. When a short-term vacancy is caused by deputation of an officer for a period of more than one year, it is open to administration to treat that vacancy as a regular vacancy. It was, therefore, treated as promotion vacancy so that if and when the officer on deputation reverts back, the departmental promotee can be reverted. In these circumstances, Shri A.S. Desai was promoted against the short-term vacancy caused by deputation of Shri Sood.

5. On 29.11.1986, the respondents decided to fill up two posts of Deputy Directors by direct recruitment and the UPSC advertised these posts on 29.11.1986. Of the two posts, one was reserved for Scheduled Tribe candidates, failing which it was to be treated as unreserved and one post was unreserved. The learned counsel for the applicants stated that one of the two posts advertised could be treated as for direct recruitment and not both the posts. Otherwise, it would violate the rotation of vacancies between promotees and direct recruits as stipulated in the recruitment rules.

6. The stand of the respondents is that the two posts of Deputy Director advertised by the UPSC related to direct recruitment quota. According to them, as Shri A.S. Desai continued on regular basis on Shri Sood's going on deputation, it was treated as promotion quota vacancy. This resulted in two successive vacancies being filled up by departmental promotion. In order to maintain parity between department

promotees and direct recruits, two vacancies were treated against direct recruitment and advertised accordingly.

7. We have gone through the records of the case carefully and have considered the rival contentions. Though the vacancy filled up by Shri A.S. Desai belonged to a direct recruit, it was treated as a vacancy in the promotion quota. The applicants are not aggrieved by this. Their grievance relates to treating the two subsequent vacancies also as earmarked for direct recruits. In our opinion, there is merit in the contention of the applicants. In case both the vacancies are treated as falling in the direct recruit quota, it will violate the rotation of vacancies as laid down in the recruitment rules. We, therefore, hold that one of the two vacancies so advertised should be treated as belonging to the promotee-quota and should be filled on that basis.

8. This Tribunal has held in 1988(1) ATR 344(Dr. N.C. Singhal Vs. Union of India) that the quota rule prescribed under the relevant recruitment rules should be adhered to by the authorities concerned.

9. In view of the above, the application is partly allowed. The respondents are directed to treat one of the two posts of Deputy Director (R&VP) advertised through

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UPSC for direct recruitment as meant for being filled up by promotion and take appropriate action on that basis. They shall comply with the above directions within a period of three months from the date of receipt of this order.

There will be no order as to costs.

B.N. Dholiyal
(B.N. DHOUNDIYAL) 30/1/92
MEMBER (A)

30/1/92
(P.K. KARTHA)
VICE CHAIRMAN (J)

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