

(3)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI.

O.A. 1006/87

Date of decision: 20.4.93

P.T. Thomas.

...Petitioner.

Versus

Union of India & Anr.

...Respondents.

CORAM:

THE HON'BLE MR. JUSTICE V.S. MALIMATH, CHAIRMAN.
THE HON'BLE MR. B.N. DHOUNDIYAL, MEMBER(A).

For the petitioner.

..Shri B.B. Raval,
Counsel.

For the Respondents.

..Shri P.P. Khurana,
Counsel.

JUDGEMENT (ORAL)

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



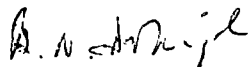
The petitioner, Shri P.T. Thomas, has come to this Tribunal principally complaining that he has not been made permanent as Deputy Field Officer, that he has not been given seniority, that his name has not been included in the seniority list and that his case has not been considered for higher promotion. The relevant facts which are necessary to appreciate the case of the petitioner are briefly stated as follows.

2. The petitioner was directly recruited as Deputy Field Officer and became a part of the establishment of the Cabinet Secretariat. By order dated 13.7.1978 he was given quasi permanent status w.e.f. 1.12.1975. With effect from 21.10.1975 Research and Analysis Wing (Recruitment, Cadre and Service) Rules 1975 (for short 'Rules') were

promulgated. The petitioner was asked whether he would like to opt the new rules or he would like to be governed by the old rules. He opted for being governed by the new rules. It is, therefore, that his case for the reliefs which he has claimed in this case has to be examined in the light of the new rules which came into force on 21.10.1975. It is clear from the fact already stated that as on the date on which the new rules came into force, the petitioner had not become a permanently appointed Deputy Field Officer. He was having only quasi permanent status, that too w.e.f. 01.12.1975. The new rules provide for initial constitution of the cadre for which specific provision is made in Rule 32. It provides the procedure to be followed in the matter of absorbing existing employees by way of initial constitution of the cadre. The initial constitution of the cadre with which we are concerned, was constituted w.e.f. 1.3.1983. Rule 32 provides that for the purpose of absorption of the existing employees for being inducted by way of initial constitution, the cases of the incumbents have to be examined by Special Selection Board consisting of at least three members nominated for that purpose. The rights of those ~~being~~ governed by the new rules for being inducted by way of initial constitution, therefore, depended upon the proceedings of the Special Selection Board whose duty was to examine the case of everyone and decide about the suitability for absorption. The

respondents have taken the plea that the case of the petitioner was considered by the Special Selection Board on more than one occasion. On both the occasions, the petitioner was not found fit for absorption. The right of the petitioner was essentially for consideration of his case. The respondents having taken the stand that the case of the petitioner was considered, the right of the petitioner in this behalf has been duly respected. There is no good reason to draw an inference that the duly ^{constituted} /selected Board did not perform its duty of examining the case of the petitioner in a proper and satisfactory manner. We must bear in mind that the petitioner was not confirmed on 21.10.1975, the date on which the new rules came into force. Hence, the suitability of the petitioner for absorption has to be examined under the new rules, the petitioner having exercised his option for being governed by the new rules. He not having been found fit and suitable was not confirmed and, therefore, not inducted by way of initial constitution into the cadre. This answers why others who possibly got confirmed were able to steal a march over the petitioner. The fact that others who have stolen march over the petitioner cannot be a ground for interference. The question of including the name of the petitioner in the seniority list would not arise as he did not pass the test by getting selected by the Selection Board. We are, therefore, satisfied on the materials placed before us that the

petitioner's case having been duly considered, he cannot make any grievance justifying interference in these proceedings. Right from the date the new rules came into force, he having exercised his option, his rights are to be regulated by the said rules alone. He was only having quasi permanent status. He had to acquire the permanent status for absorption in accordance with the new rules. That he failed to qualify. Hence, it is not possible to grant any relief to the petitioner. This petition fails and is accordingly dismissed. No costs.



(B.N. Dhoundiyal)

Member (A)



(V.S. Malimath)

Chairman

'SRD'

200493