

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A. No. 2053/90
T.A. No.

199

DATE OF DECISION 12.4.1991.

Shri G.P.S. Bjoj

Petitioner Applicant

Shri V.S.R. Krishna Shastri

Advocate for the Petitioner(s) Applicant

Versus

Union of India & Others

Respondent

Shri P.H. Ramchandani

Advocate for the Respondent(s)

CORAM

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

The Hon'ble Mr. D.K. Chakravorty, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgement ? *Y*
2. To be referred to the Reporter or not ? *Y*
3. Whether their Lordships wish to see the fair copy of the Judgement ? */ M*
4. Whether it needs to be circulated to other Benches of the Tribunal ? */ M*

(Judgement of the Bench delivered by Hon'ble Mr. D.K. Chakravorty, Administrative Member)

The grievance of the applicant, who is working as Assistant Superintendent in the Office of National Sample Survey Organisation, Ministry of Planning, relates to his non-appointment to the post of Investigator, Grade I for which he was duly selected by the Union Public Service Commission (UPSC).

2. On 6.8.1987, the U.P.S.C. informed the applicant that they have recommended the appointment of the applicant to the post of Investigator, Grade I, in the Labour Bureau,

Chandigarh, Ministry of Labour. The U.P.S.C., however, made it clear in their letter that the offer of appointment will be made to him only after the Government satisfied themselves after such inquiry as may be considered necessary that he was suitable in all respects for appointment to the Service, and that he was in good mental and bodily health and free from any physical defect likely to interfere with the discharge of his duties. The offer of appointment was also subject to such other conditions as were applicable to all such appointments under the Central Government.

3. On 15.3.1988, the respondents informed the applicant that the Director, who was the appointing authority, was expected to be in position shortly and that the offer of appointment will be issued immediately after the Director is in position.

4. On 17.6.1988, the respondents informed the applicant that due to "administrative reasons", it was not possible to offer him the post of Investigator, Gr.I in their office.

5. The respondents have stated in their counter-affidavit that, according to the recruitment rules for the post of Investigator, Gr.I, 50 per cent is to be

filled by direct recruitment through the U.P.S.C. and 50 per cent by promotion. During June, 1987, three vacancies of Investigators, Grade I became available for filling up by direct recruitment through U.P.S.C. After holding an interview, the U.P.S.C. recommended three candidates, including the applicant. The respondents have stated that before sending the offers of appointment, it was necessary to get the 'Fitness' certificate from the Civil Surgeon and to verify the antecedents of the persons concerned. While, the applicant was medically examined and was found fit, his character and antecedents were not verified. The verification report was received by them from the Delhi Police authorities on 4.12.1987.

6. In the meanwhile, the character and antecedents of respondent No.4 (Smt. Harita), who was working in the office of respondent No.2 (Director, Labour Bureau, Ministry of Labour, Chandigarh), were found to be satisfactory and she was offered the post of Investigator, Grade I on 10.9.87. Accordingly, she was appointed to the said post.

7. During December, 1987, when the verification report of the applicant was received from the Police authorities, the Director of the Labour Bureau was not

in position and he joined on 5.5.1988. In the meanwhile, a Study Team of the Staff Inspection Unit (SIU) of the Ministry of Finance, carried out work measurement study of the Labour Bureau. The S.I.U. recommended abolition of 10 posts in the Grade of Investigator, Grade I. In view of this, the applicant could not be offered the post of Investigator, Grade I.

8. The respondents have stated that respondent No.4 and two other persons senior to the applicant have already been declared surplus. Three persons appointed as Investigator, Grade I by promotion, have been reverted to the post in the feeder grade.

9. Thus, the stand of the respondents is that the applicant could not be offered appointment to the post delay in verification of his character and antecedents and of Investigator, Grade I in view of the abolition of 10 posts in the grade on the basis of the recommendations of the S.I.U. According to them, even if he had been appointed pursuant to the recommendations made by the U.P.S.C., he too would have been declared surplus consequent upon the acceptance of the recommendations of the S.I.U. Team.

10. With regard to the appointment of respondent No.4, the respondents have sought to justify the same by stating that the verification report in her case came earlier. At the time of her appointment, two posts in the Court were kept vacant. The applicant could be appointed against one of them after receipt of character and antecedents' verification. It was in the meanwhile that the recommendations of the S.I.U. had to be implemented. They have stated that at present there is no vacancy in the post of Investigator, Grade I and as and when regular vacancies become available, these will have to be offered in the first instance to those who are senior to the applicant and have been rendered/declared surplus consequent upon the acceptance of the recommendations of the S.I.U. According to them, the applicant could be offered appointment if the ten posts in the Grade were not abolished.

11. The applicant claims that the U.P.S.C. has graded him higher than respondent No.4 at the Interview. Adverting to this, the respondents have stated that the order of merit, as intimated by the U.P.S.C., was not disturbed but respondent No.4 was appointed earlier as all pre-recruitment formalities in her case were complete,

while the verification report of the applicant was still awaited. By the time his verification report was received, the recommendations of the S.I.U. had been received and were being processed.

12. We have gone through the records of the case carefully and have considered the rival contentions. This appears to be an unfortunate case in which a candidate duly selected by the U.P.S.C. for appointment to the post of Investigator, Grade I, has been denied appointment on the ground of delayed receipt of the verification report from the Police authorities and subsequent abolition of posts. Respondent No. 4 came to be appointed as Investigator, Grade I as her verification report was received earlier, but she too has been declared surplus after the abolition of the posts.

13. The applicant has drawn our attention to the promotion of certain persons working in the Ministry of Labour (Labour Bureau) to higher posts and to the resultant vacancies caused by such promotion.

14. In the facts and circumstances of the case, the application is disposed of with the directions to the respondents that the applicant should also be considered

for appointment as Investigator, Grade I, in accordance with the merit list prepared by the U.P.S.C. in any of the vacancies that exist or may become available in future. The post of Investigator, Grade I should not be filled by direct recruitment without exhausting the panel of names recommended by the U.P.S.C. The application is disposed of at the admission stage itself with the aforesaid directions.

There will be no order as to costs.

Chakravorty 12/4/89
(D.K. Chakravorty)
Administrative Member

Kartha 12/4/89
(P.K. Kartha)
Vice-Chairman (Judi.)