

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 2503/90 199
T.A. No.

DATE OF DECISION 21.12.1990.

<u>Shri Arun Kumar Jain</u>	<u>Petitioner</u> Applicant
<u>Shri T.C. Aggarwal</u>	<u>Advocate for the Petitioner(s)</u> Applicant
Versus	
<u>Union of India through the Secy., Miny. of Welfare & Anr.</u>	<u>Respondent</u>
<u>Shri P.H. Ramchandani</u>	<u>Advocate for the Respondent(s)</u>

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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? Yes
2. To be referred to the Reporter or not? Yes
3. Whether their Lordships wish to see the fair copy of the Judgement? No
4. Whether it needs to be circulated to other Benches of the Tribunal? No

(Judgement of the Bench delivered by
Hon'ble Mr. P.K. Kartha, V.C.)

The applicant, who is working as Accountant in the Central Social Welfare Board under the Ministry of Welfare, filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying for directing the respondents to consider him for promotion as Accounts Officer. The application was admitted on 30.11.1990 and the respondents were directed to file counter-affidavit within four weeks, and the applicant his rejoinder within two weeks thereafter. The case was fixed before D.R. on 23.1.1991. As regards interim relief, notice was

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directed to be issued to the respondents, returnable on 14.12.1990. In the meanwhile, the respondents were directed not to fill up the post of Accounts Officer on deputation.

2. Shri P.H. Ramchandani appeared for the respondents on 14.12.1990 and opposed the continuance of the interim order passed on 30.11.1990. The matter was argued on merits without filing the counter-affidavit. We feel that the application could be disposed of without the counter-affidavit of the respondents and we proceed to do so.

3. The facts of the case in brief are that the applicant joined the service of the Central Social Welfare Board as Accountant on 19.9.1984. Prior to that, he had worked for about six years in private sector and for about $2\frac{1}{2}$ years in the Cement Research Institute of India, which is in ~~the~~ the public sector.

He claims that he has by now put in 17 years' service as an Accountant, but he has not been promoted so far as Accounts Officer. He claims that he is the only regular Accountant to be considered for appointment as Accounts Officer. He is shown as the senior-most Accountant in the seniority list as on 1.12.1989. Q2

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4. The applicant has produced at Annexure A-5 to the application, a copy of the recruitment rules for the post of Accounts Officer/Pay & Accounts Officer. According to the recruitment rules, the post of Accounts Officer/Pay & Accounts Officer is a selection post. Columns 10, 11 and 12 which deal with the method of recruitment and the composition of the D.P.C., read as under:-

- "10. Method of rectt. whether by direct rectt. or by promotion or by deputa-
tion/transfer & percentage of the vacancies to be filled by various methods. Accounts Officer of the Audit and Accounts Department with 5 years service in the cadre. An employee of CSWb/ having degree in Commerce with Advance Accountancy and 10 years experience of accounts work, out of which should have worked at least for 5 years in a supervisory capacity in Accounts Division.
11. In case of recruitment by promotion/deputation/ transfer grades from which promotion/deputa-
tion transfer to be mads. Post of Accountant/SAS Accountants.
12. If a DPG exists, what is its composition. Chairman, CSWb TFA-cum-CA Secretary, CSWb."

5. The applicant has contended that he is eligible for promotion to the post of Accounts Officer, ^{and} the said post should not be filled by deputation. He has relied upon the Administrative Instructions issued by the Department of Personnel & Training on 16.3.1988, 7.12.1962 and 10.3.1989 in support of his contentions.

According to the Instructions issued by the Department of Personnel & Training on 18.3.1988, the qualifying service required for promotion to a post carrying the pay-scale of Rs.2,000-3500 is only three years, which the applicant fulfills.

6. According to the Instructions issued on 7.12.1962, the system of filling up of posts on deputation basis being ^{an} ~~an~~ expensive one, should be resorted to only in exceptional cases and with discretion. Normally, there should be no case of deputation of ministerial employees except in the case of employees of the Accounts Department and Class IV Government servants.

7. The Instructions issued in March, 1989 provide, inter alia, that for all Group 'C', Group 'B' and Group 'A' posts upto the level of Rs.3750-5000, the benchmark would be 'Good' for the purpose of promotion.

8. The learned counsel for the respondents contended that the suitability of the applicant was also considered for promotion by the D.P.C. which was constituted for the purpose of recommending a suitable person to the post of Accounts Officer. He relied upon the Instructions issued by the Ministry of Finance on 7.12.1962, according to which, posts of Accounts Department could be filled on deputation basis in exceptional cases. He also stated

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that the D.P.C. did not find the applicant suitable for appointment as Accounts Officer and has recommended the names of persons to be considered for appointment on deputation.

9. We have carefully gone through the records of the case and have considered the rival contentions. The applicant has worked as Accountant only from 1984 and it cannot be said that he has ten years' experience of Accounts work in the Government of India or in the Central Social Welfare Board, where he is employed. According to the relevant recruitment rules reproduced above, Accounts Officer of the Audit & Accounts Deptt. with five years' service in the cadre, is eligible for appointment as Pay & Accounts Officer. An employee of the Central Social Welfare Board, who has acquired ten years' experience in the post of Accounts Officer out of which he has worked at least for five years in a supervisory capacity in Accounts Division, is also eligible for appointment as Accounts Officer. The recruitment rules do not clearly stipulate as to which mode of recruitment should be adopted in each case, as is clear from Cols. 10 and 11 thereof. Assuming that the applicant is eligible, he will be the only candidate in the field of choice. In such a case, the decision of G

the D.P.C. to adopt the composite method and to consider the persons suitable for appointment on deputation, cannot be faulted. In fact, this is what has happened in the instant case.

10. The fact that the applicant may have received 'Good' reports during his five years' stint in the service of the Central Social Welfare Board, will not by itself confer on him a right to appointment to the post of Accounts Officer/Pay & Accounts Officer, which is a selection post. The very concept of selection method is that the appointment should be based on the criterion of comparative merit.

11. In the conspectus of the facts and circumstances of the case, we see no merit in the present application and the same is dismissed. The interim order passed on 30.11.1990 and continued thereafter, is hereby vacated.

There will be no order as to costs.

D.K. Chakravorty
(D.K. Chakravorty)
Administrative Member
21/12/90

P.K. Kartha
21/12/90
(P.K. Kartha)
Vice-Chairman (Judl.)