

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
N.E.W D.E.L.H.I

O.A. No. 364/90
T.A. No.

199

DATE OF DECISION 25.9.91

<u>Dr. S.K.Gupta</u>	Petitioner Applicant
<u>Sh.B.B.Raval,</u> Versus	Advocate for the Petitioner(s) Applicant
<u>Union of India & anr</u>	Respondent
<u>Sh.P.P.Khurana</u>	Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. P.K.KARTHA, VICE CHAIRMAN(J)

The Hon'ble Mr. D.K.CHAKRAVORTY, MEMBER(A)

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

(JUDGEMENT DELIVERED BY HON'BLE MR.D.K.
 CHAKRAVORTY, MEMBER)

The applicant, who is working as Section in the Research and Analysis Wing, Cabinet Secretariat, filed this application under Section 19 of the Administrative Tribunals Act, 1985 praying for the following reliefs:-

- (i) direct the respondents to appoint the applicant to the post of Under Secretary in his own discipline of Ph.D. i.e. Chemistry wherein there are three Under Secretaries at the moment, none of whom is a Ph.D in any subject and one of whom is an M.Sc. in Physics.
- (ii) fix up accountability for wastage thrust on the exchequer by denying the proper utilisation of the study-leave availed at the cost of the huge expenditure to the exchequer.
- (iii) award exemplary cost for this application with a request to issue any other order/orders, relief/reliefs, if any, as deemed fit in the light facts and circumstances of the case.

2. The applicant joined the Government of India service as Assistant in the Research and Analysis Wing, Cabinet Secretariat, on 21st July, 1975 as a direct recruit. Before joining the Government of India service, he completed his M.Sc. in Chemistry and was registered as a student for Ph.D. on 1st June, 1975 and for this purpose, after joining the service he applied for two years' study leave to complete the thesis for the Doctorate in December, 1979. He filled up a bond to serve the Government for three years as a condition precedent to the sanction of study leave. Another provision to be complied with before the sanction of study leave was for the granting authority to be satisfied that the study for the purpose of which leave is to be granted is of definite interest to public service. Thereafter the leave was duly sanctioned to him. He was allowed to avail of this leave of two years from 17th June, 1980 to 16th June, 1982, during which period, he completed the research assignment successfully and published eight research papers in National/ International Journals and also submitted his Ph.D Thesis in January, 1984 culminating to award of Doctorate in September, 1984 after viva voce.

3. On his return from the study leave, the applicant was posted to R&D Unit as Assistant. He passed the Limited Departmental Competitive Examination and was promoted to the post of Section Officer on 14.8.86. He feels that injustice has been done to him by not giving a suitable

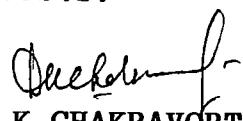
appointment in the R&D Division commensurate to his educational qualifications. The representations submitted by him from time to time did not receive any favourable response.

4. The respondents have stated in their counter-affidavit that the applicant was interviewed for recruitment to the post of RO(Tech-Chemistry) in January, 1988 but he could not make the grade. After the expiry of the requisite bond period, his applications were forwarded to the UPSC as well as other departments on as many as six occasions during the year 1985. The applicant was also informed that in order to better his prospects, he could still apply outside the department for the appointments in response to vacancies advertised by the UPSC. They have also contended that they are not bound to utilise the higher qualifications acquired by him during study leave, and that he could apply for posts outside the department in response to vacancies advertised by the UPSC and other departments.

5. We have carefully gone through the records of the case and have considered the rival contentions. The respondents granted study leave which enabled him to obtain a Doctorate in Chemistry. They did not hold out any promise or assurance to him that he would be given promotion or appointment in a higher post on return from study leave. Promotion or appointment in higher posts would depend on the vacancies available and the relevant recruitment rules, as also the qualifications, experience and relative merits of the eligible applicants.

The applicant has only a right to be considered for appointment in any suitable vacancy arising within his own department or advertised by the UPSC or other bodies. The respondents have stated in their counter-affidavit that the applicant will be at liberty to apply for such vacancies.

6. In the light of the foregoing, we see no merit in the present application and the same is dismissed. There will be no order as to costs.


(D.K.CHAKRAVORTY)
MEMBER(A) 25/9/891


(P.K.KARTHA) 25/9/891
VICE CHAIRMAN(J)