

(8)

Central Administrative Tribunal
Principal Bench: New Delhi

OA No.39/90

New Delhi this 10th Day of August, 1994.

Sh. N.V. Krishnan, Vice-Chairman (A)
Sh. C.J. Roy, Member (J)

1. Smt. Laxmi Narayanan
W/o Sh. G.K. Narayanan
2. Mrs. Sarabjit Kaur,
W/o Sh. Bhupinder Singh
3. Mrs. Gurcharan Kaur,
W/o Sh. Surinder Singh
4. Smt. Santosh Mathur,
W/o Sh. N.C. Mathur
5. Smt. Satya Kaemra,
W/o Sh. S.N. Kaemra
6. Smt. Darshan Gulati,
W/o Sh. Dev Raj Gulati

...Applicants

(By Advocate Sh. R.V. Sinha, though none appeared)

Versus

1. Union of India through
The Secretary,
Ministry of Urban Development,
Nirman Bhawan,
New Delhi.
2. Directorate of Estates,
Nirman Bhawan, New Delhi
through Director.
3. Smt. Vimla Gupta
R/o G.95, Sarojini Nagar.
4. Smt. Bimla Sharma,
W/o Sh. N.K. Sharma,
R/o 8/52, Lodhi Road,
New Delhi.
5. Smt. Veena Sarin
working as U.D.C. in the
Directorate of Estates,
New Delhi.

(By Additional Standing Counsel Sh. M.K. Gupta, though none appeared).

ORDER(ORAL)

Hon'ble Mr. N.V. Krishnan:-

The applicants are employed in various capacities under the second respondent, Directorate of Estates on what is termed as ex-cadre post. Paragraph-1 of

12

the application states that the application is against the arbitrary action/failure of the respondents to absorb the services of the applicants into the Central Secretariat Clerical Service and further consider them for promotion, as the respondents have absorbed similarly placed ex-cadre employees in the Central Secretariat Clerical Cadre and have further promoted them to higher posts of UDCs with better promotional avenues. The prayers made are as follows:-

"(a) declare that action of the Respondents 1 & 2 of non-inclusion of the applicants into CSCS cadre and Respondents further failure to consider the applicants for promotion to the posts of UDC like the Respondents 3 to 5 is arbitrary and discriminatory and violative of the Fundamental Rights of the applicants guaranteed in Articles 14 & 16 of the constitution.

Further declare that leaving the applicants for more than twenty years without promotional avenues/promotional opportunity is unfair and unjustified and illegal.

To further declare that the applicants are deemed inducted in CSCS Cadre from the date of their appointment under Respondent 2 or from the dates the Respondent 3 or 4 to 5 were inducted in the CSCS Cadre."

2. The respondents have filed a reply. In so far as the crux of the matter is concerned, the respondents have given the following reply to para 4.23 and

ll

4.24 of the O.A.: -

"In reply to para 4.23 to 4.24 it is submitted that the request of the applicants for inclusion into the LDC grade of CSCS was taken up variously with the Department of Personnel and Training but they did not agree to the proposal mainly on account of following reasons:-

a) That there was no provision in CSCS rules for lateral inclusions of Personnel of other ex-cadre posts.

b) That even in 1978, all of them except one, were over 35 years of age and even after inclusion into the CSCS, they would get promotion only after completing the age of 35 years which would not serve the purpose in view.

c) All of them would not be able to qualify the Clerk grade examination without which it would not be possible to include them on CSCS.

d) That if the applicants are included in the SCS it would have wide repercussions.

e) The case of Smt. Bimla Gupta stands on a different footing. No doubt she was initially appointed as Plate File Clerk in December, 1971. Her services were terminated in that post by Memo No.1899/Admn.B/72 dated 27.07.72.

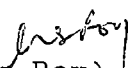
Subsequently she was appointed as LDC with effect from 18.8.72 on nomination by the then Ministry of Works and Housing. Thus, it is incorrect to say she was transferred from the post of Plate File Clerk to LDC of the CSCS."

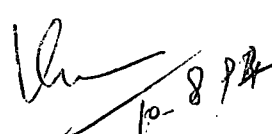
u

3. It is clear from this reply that the representations of the applicants and their request were taken up by the respondents with the Department of Personnel and Training, which is the cadre controlling authority and it is that Department which did not agree to the proposal made by the respondents on the grounds mentioned above. It is because of this absence of consent from the Department of Personnel and Training that the reliefs claimed by the applicants could not be granted to them.

4. The applicant have filed a rejoinder in regard to this reply. In so far as the reply, extended above, is concerned, they have merely reiterated the averments made in the O.A.

5. As a matter of fact, when it was brought to their notice that the respondents 1 and 2 have found themselves unable to accede to the requests made by the applicants because the Department of Personnel and Training had not agreed to them, the applicants ought to have impleaded the Department of Personnel and Training also and claimed relief against them, which could have been considered in this O.A. As that Department has not been impleaded, we are of the view that this application suffers basically from the non-joinder of necessary parties for the effective adjudication of the case. Accordingly, the O.A. is dismissed. No costs.


(C.J. Roy)
Member(J)


(N.V. Krishnan)
Vice-Chairman(A)

'Sanju'