

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA 489/1990

NEW DELHI, this 6th day of July, 1994

Shri C.J. Roy, Member (J)

Shri P.T.Thiruvengadam, Member(A)

Shri S. Sridharan  
s/o Shri B. Sampath  
and 21 others as mentioned  
in Memo of Parties  
all employed in the office  
of Director General of Meteorology  
Mausam Bhawan  
Lodi Road, New Delhi

.. Applicants

By Advocate Shri B.S. Mainee

Versus

Union of India, through

1. Secretary  
Ministry of Science & Technology  
New Mehrauli Road  
New Delhi

2. Director General of Meteorology  
Mausam Bhawan  
Lodi Road, New Delhi

3. Dy. Director General (Admn.)  
Dte. General of Meteorology  
Mausam Bhawan, New Delhi

.. Respondents

By Advocate Shri M.K.Gupta

ORDER (oral)

(By Shri C.J. Roy, Member(J))

This OA is filed by the applicants aggrieved by the Annexure A-1 OM dated 6th September, 1989 rejecting their request for promotion to the post of Senior Observers from a retrospective date, i.e. from the date of completion of five years of service, on the following grounds.

2. The applicants joined service with Respondent No.2 as LDCs/Observers and as <sup>per</sup> Government instructions dated 26.6.78 they were to to be promoted automatically to the grade of Senior Observer on seniority-cum-fitness basis after 5 years service. Their contention is that while some of their colleagues with five years service have already been promoted, the applicants were discriminated <sup>in</sup>asmuch as that they were promoted after 7 to 12 years service thus following a different yardstick.

They have thus filed this OA <sup>in the process</sup> praying to direct the respondents to consider the applicants for promotion as Senior Observer from retrospective effect i.e. from the date they have completed 5 years of service, fix their salary in the higher grade and pay arrears accordingly.

3. The respondents have filed their reply denying the averments made in the OA. They say that as per 1971 Recruitment Rules, LDCs were eligible for promotion as Senior Observer/UDC. In the case of Senior Observer, 50% was filled by direct recruitment and 50% by promotion, whereas for UDC, it was filled 100% by promotion, i.e. 75% by seniority-cum-fitness and 25% by departmental competitive exam. The post of Senior Observer is a technical one, for which one of the conditions was passing the Elementary Meteorological Training and those who did not pass that training were considered for promotion to the post of UDC. These Rules were amended in 1982 as per Government instruction by which the qualifying service of 5 years for promotion was enhanced to 8 years in any of the grade, i.e. LDC/Observer/Laboratory Assistant. The Department took a decision in 1979 to bifurcate the Administrative Wing from the Technical Wing, by which Observers being on the technical side, were given the option to elect either to continue in the technical side or be absorbed in Administrative Side but LDCs were not allowed to exercise any such option. This was challenged by some LDCs in the Central Administrative Tribunal by OA 886/86 which was decided on 10.3.87 directing the respondents to give the applicants the option either to continue in the Administrative Side or to work on the Technical side with the imposition of a condition that such of the <sup>res</sup> applicants who have not undergone training would complete the training within a specific period

after exercising their option, as a result of which those LDCs who opted for the technical side were given promotion as Senior Observers during 1987-89. The respondents further aver that the case for giving promotion with retrospective date to the applicants who opted for the Senior Observer was sent to the Government, but it was not agreed to as the Tribunal's judgement does not contain any such direction for giving same benefit to the LDCs opted to the post of Senior Observer.

4. The applicants have filed a rejoinder more or less asserting the same points.

5. We have heard the counsel for the parties. The learned counsel for the applicant has filed a copy of the Bombay Bench decision dated 22.2.94 in OA 172/90 and 178 to 181/90 in an identical case of the same Department. Following <sup>the</sup> reasonings given in that judgement, we also propose to give the following direction to the respondents..

6. The respondents are directed to promote the applicants from the post of Lower Division Clerk to Senior Observers on completion of qualifying service of five years and subject to availability of posts and according to seniority. The applicants shall be entitled to seniority from the date of promotion as above. However, their pay will be fixed notionally from the proposed date of promotion, but arrears of pay will be admissible only from the actual date of their joining the promoted post of Senior Observer. The respondents are directed to complete this exercise within four months from the date of receipt of order by them.

The OA is thus disposed of. No costs.

*P. J. Thiruvengadam*  
(P.T.Thiruvengadam)  
Member (A)

*C. J. Roy*  
(C.J. Roy)  
Member (J)

/tvq/