

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

(11)

M.P.1986/90 IN  
O.A. 650/90

DATE OF DECISION 07-03-1991

Shri B.C. Mazumdar and Others .....Petitioner

Vs.

Union of India-D/O Culture .....Respondents

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SHRI N.V. KRISHNAN, HON'BLE MEMBER (A)

SHRI J.P. SHARMA, HON'BLE MEMBER (J)

Shri E.X. Joseph

.....Counsel for the  
Petitioner

Shri K.C. Mittal  
alongwith Shri S.Sarkar,  
Dy. Director, National Archives  
of India, departmental  
representative.

.....Counsel for the  
Respondents

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?

O R D E R

The applicants are Assistant Microphotographers in the National Archives of India. Their grievance relates to the reduction in the <sup>opportunities</sup> ~~appointments~~ of promotion to departmental officials. Prior to 1981, the Recruitment Rules provided for filling up all these posts.

12

by promotion of departmental candidates. The revised rules of 1981, National Archives of India Recruitment Rules (Group 'A' & 'B' Posts), 1981, now provide that appointment will be 25% by promotion and 75% by direct recruitment. For obvious reasons, the applicants being departmental candidates, feel aggrieved by this revision in the percentage of posts reserved for being filled by promotion. The applicants state that they had submitted a representation dated 22.9.1986 to the first respondent which, still remains unanswered.

2. They have, therefore, sought the following reliefs :-

- (i) Grant of orders striking down the provision in Column 11 of the Schedule to the National Archives of India (Recruitment to Group A and Group B Posts) Rules, 1981 which lays down the method of appointment as 25% by promotion and 75% by direct recruitment;
- (ii) Grant of orders striking down and setting aside the Advertisement in the Employment News under No.F.1/16/90/R-3 advertising for appointment by direct recruitment to the post of Microphotographer published in Employment News issue dated 24.2.1990 to 2.3.1990;
- (iii) Grant of directions to respondents nos.1 to 3 to review the amended RRs of 1981 and to restore the provision relating to the method of appointment as it existed in the 1960 RRs;
- (iv) Grant of directions to the respondents to merge the cadres of Asstt. Microphotographer Gr.II and I as per the instructions by the Ministry of Finance and Department of Culture and carry out the consequential review of the Recruitment Rule relating to the method of appointment;

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- (v) Alternatively it is prayed that the respondent be directed to relax the provision in the Schedule to the 1981 RRs in regard to the method of appointment and lay down that the vacancies arising in the post of Microphotographist from 1989 will be filled up by promotion till all the present incumbents in the post of Asstt. Microphotographist Gr.I who are eligible for such promotion are considered and promoted if selected;
- (vi) Grant of directions to the respondents not to take any step for filling in the vacancy in the post of Microphotographist which arose in 1989 by the method of recruitment and not to hold the interview for the direct recruitment as advertised on 24.2.90-2.3.1990 issue of Employment News.
- (vii) Grant of directions that the applicants who are regular Asstt. Microphotographist Gr. I should be provided with opportunity for being considered for promotion to the post of Microphotographist in the one vacancy which is available now and in vacancies which arise in future;
- (viii) Grant of any other relief which this Hon'ble Tribunal considers appropriate and necessary in the facts of the case; and
- (ix) Grant of cost of this petition to the applicants.

3. The respondents have in reply stated that the 1981 Rules have been framed by the competent authority and, therefore, the applicants are not entitled to any relief. However, it is stated in para 4.9 of the reply that the question of amending the aforesaid 1981 Rules is being examined by the second respondent as required in the circular dated 18.3.1988 of the Department of Personnel.

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It is also stated that the representations filed by the applicants have been forwarded to the Department of Culture for consideration.

4. We have heard the counsel of the parties and also perused the records. The counsel for the respondents submitted that, perhaps, this case could be disposed of with a direction to the respondents to consider the representation made by the applicants on 22.9.1986 and pass appropriate orders thereon.

5. The learned counsel for the applicant submitted that as direct recruitments are likely to take place soon against 3 vacancies, likely to arise shortly, it would be in the interest of justice to stay proceedings for such recruitment till a decision is taken. MP 1986/90 has been filed in this connection. It is stated by him that there are only 5 posts in this cadre and the next vacancies for promotion are likely to occur only around in 2007, if the present Rules are not amended or relaxation is not given. It is also submitted by him that while the age prescribed for direct recruitment is 30 years, the upper age limit prescribed for the departmental candidates who can also compete for direct recruitment is as low as 35 years <sup>and,</sup> as a result, many

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departmental candidates are unable to compete in the direct recruitment process, as they have become over-aged.

6. As we understand, the grievance of the applicants has arisen mainly because the cadre is too small. It would appear from a submission made by the learned counsel for the applicant that for this very reason the U.P.S.C. could not select proper candidates from the open market, as such, candidates were not sure of their future prospects in this small cadre. This is one issue which the Administrative Ministry and other experts have to consider when the 1981 Rules are reviewed to take a view whether such a <sup>high</sup> ~~list~~ proportion of reservation for direct recruitment is desirable.

7. Therefore, having considered the submissions made by the counsel, we are of the view that the nature of the issue involved for adjudication is such as should, in the first instance, be considered by the Administrative Ministry itself. For prima-facie, the Administrative Ministry alone can best appreciate the pros and cons of the issue and is, therefore, in a position to give relief to the applicants, if it is convinced of the justice of the reliefs sought. In this view of the matter, we feel that in the interest of justice, it would be sufficient, if the first respondent to whom the representation dated 22.9.86, has been addressed, is directed to dispose of that representation within a period of 4 months from the date of

6

receipt of this order, taking into account the reliefs sought in this application and the grounds urged in support thereof and the observation made in this order. We do so.

8. That leaves for consideration the question whether we should, as an interim measure, direct the respondents to stay the proceedings for direct recruitment. We have carefully considered this question. We are of the view that it will be inappropriate for us to issue such a direction keeping in view the provisions of the 1981 Rules. However, we feel that it is for the first respondent to consider this request of the applicant also sympathetically keeping in view the circumstances in which the prayer is made and accordingly, we leave the question for the decision to the first respondent. Therefore, M.P. No.1986/90 filed with the prayer is rejected.

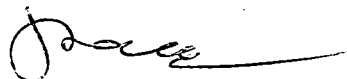
9. We make it clear that we have neither considered the merits of the application and the reliefs urged nor the grounds. Therefore, the applicant will be at liberty to agitate the matter in the proper forum, if so advised, if he does not get satisfaction at the hands of the first respondent

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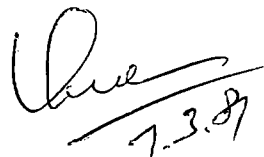
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in pursuance of our directions.

10. The application is disposed of with the aforesaid observations and directions. There will be no order as to costs.

  
(J.P. SHARMA)  
MEMBER (J)

7/3/91

  
(N.V. KRISHNAN)  
MEMBER (A)