

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A. No. 920
T.A. No.

1990

DATE OF DECISION 8-6-1990R.P.VermaPetitionerShri R.L.Sethi,Advocate for the Petitioner(s)VersusUnion of IndiaRespondentsSh.P.P.KhuranaAdvocate 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? *No*
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. D. K. Chakravorty, Member)

The short point for consideration in this application filed under Section 19 of the Administrative Tribunals Act, 1985 is whether the action taken by the respondents to advertise a post when no departmental candidate was eligible for promotion under the recruitment rules can be called in question as being illegal.

2. There are two posts of Senior Analysts in the Department of Agriculture and Cooperation, Ministry of Agriculture and Cooperation. According to the recruitment rules notified in 1986, the post is to be filled "by promotion failing which by transfer on deputation (including short-term contract) and failing both by direct recruitment."

It is a selection post.

3. The Union Public Service Commission advertised

one post of Senior Analyst, vide Advertisement No.23 dated 2.9.89 at Annexure A-6, page 18 of the paperbook. At that point of time, the applicant had not completed five years of regular service in the grade of Analyst as required for promotion under the recruitment rules of 1986. He had been working as Analyst with effect from 2-3-1985 and he would complete 5 years of regular service only on 2-3-90. As he did not fulfil the qualifications for promotion at the time of advertisement of the post of Senior Analyst on 2-9-89, he cannot challenge the action of the respondents. (Vide H.V.Pardasani & ors. v. Union of India & ors, 1985(2) SCC 468 and R.Prabha Devi & others v. Government of India, 1989(1) SCALE 453).

4. The learned counsel for the respondents stated during the hearing that the second post of Senior Analyst will be filled by promotion. Though the applicant is not the seniormost person, his suitability for promotion will also be considered.

5. In the light of the foregoing, we see no merit in the present application and the same is dismissed at the admission stage itself. The interim order passed on 18-5-90 is hereby vacated. There will be no order as to costs.

D.K. Chakravorty
(D.K.CHAKRAVORTY)
MEMBER

8/6/90

P.K. Kartha
(P.K.KARTHA)
VICE CHAIRMAN

8/6/90