

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL NEW DELHI

(14)

O.A. No. 1292/91
T.A. No.

199

DATE OF DECISION 21/2/92

A.K.Sharma

Petitioner

Shri K.L.Bhatia

Advocate for the Petitioner(s)

Versus

Union of India

Respondent

Shri J.C.Madan

Advocate for the Respondent(s)

Shri
P.P. Khurana /

CORAM

The Hon'ble Mr.

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1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

(Judgment delivered by Shri I.P.Gupta,
Hon'ble Member(A).)

J U D G M E N T

In this application filed under Section 19 of the Administrative Tribunal Act 1985, the applicant was appointed to C.G.H.S. as Office Superintendant on regular basis from 7.7.81. He was confirmed from 24-1-86. He was selected for the post of Administrative Officer according to Recruitment Rules by order dated 26-6-89 and posted to C.G.H.S. Calcutta. He did not join and represented for posting to Delhi. He received order dated 6-9-89 that since he had not reported for duty at CGHS Calcutta his appointment was cancelled and he was debarred for promotion for one year or till the next vacancy arise,

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whichever was earlier. On 26-12-90 he requested that some vacancies of Administrative Officer's in CGHS, Delhi were occurring and he should be considered for appointment. He understand that DPC has been held on 1-4-91 to consider promotion as per policy of common seniority - issued under DGHS letter dated 30-9-82 and his name tops the panel. He has not been given any appointment consequent upon DPC's recommendation so far. He apprehends that RR's might be amended to give promotion stationwise. We agree with his contention that any amendment of RR will have only prospective effect and any vacancy of 1990 or 1991 should be governed by the recruitment rules existing at the relevant time i.e. 1990 or 1991.

The applicant has sought the relief for redressal of his grievances against denial of promotion to the post of Administrative Officer inspite of his being selected by a duly constituted Committee.

The learned counsel for the respondents agreed that every CGHS organisation in Delhi and outside is an independent and separate sub office of Central Government Health Scheme. The question of disturbing seniority stationwise does not arise. Difficulty was being experienced^e in filling the post of Administrative Officer as any Office Superintendant had hardly completed 5 year's service till 1989. In public interest and to meet exigencies of the situation, a common seniority list to give promotion was prepared. Now the situation has changed and common seniority has been done away^rwith. The appointing and cadre controlling authority of every sub-office is distinct and separate. Group C & D employees of CGHS, Meerut cannot be transferred to C.G.H.S., Delhi.

While we see the force in the argument of the learned counsel for the respondents we find that a common seniority list has been prepared as late as 31-8-90. The applicant is at No.2. The Recruitment Rules of 1984 prescribe method of recruitment of Administrative Officers whose number was 4, since increased to 7. Though the applicant was confirmed as Office Superintendant, Meerut on 24-1-86, he was considered by D.P.C. on common seniority basis in June, 1989 and was selected and posted to Calcutta. He made a representation for posting to Delhi but he was debarred for promotion for one year as he did not report at Calcutta. This period ended in June, 1990. It appeared from arguments that the respondents were contemplating to amend Recruitment Rules to make selection unit-wise. While the power to amend Recruitment Rules vests with the executive such an amendment cannot take effect retrospectively. Therefore, the respondents are directed to consider the case of the applicant for promotion as A.O. against any vacancy after June, 1990 on the basis of the Recruitment Rules then prevailing at the time the vacancy arose and on the basis of instructions and practices ^{which} were not at variance with the provisions of the Recruitment Rules. The applicant was prepared to go anywhere as Administrative Officer. Such consideration of the applicants case for should promotion be done with a period of 3-months from the date of receipt of a copy of this order.

With the aforesaid direction the O.A. is disposed of.

There is no order as to costs.

I.P. Gupta
(I.P.GUPTA) 21/2/92
MEMBER (A)

Ram Pal Singh 21.2.92.
(RAM PAL SINGH)
VICE CHAIRMAN (J)