

Central Administrative Tribunal
Principal Bench, New Delhi

OA No.915/91

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New Delhi: June 1, 1995.

Hon'ble Mr A.V.Haridasan, Vice Chairman (J)
Hon'ble Mr K.Muthukumar, Member (A)

1. Mrs Swaran Kanta
Assistant
ESI Corporation Regional Office
Delhi Region
Rajindra Place, New Delhi.
2. Shri D.R.Katyal
Assistant/Head Clerk
ESI Corporation Regional Office
Delhi Region
Rajindra Place,
New Delhi.
3. Shri Khazan Singh
Assistant
ESI Corporation Regional Office
Delhi Region
Rajindra Place
New Delhi.
4. Shri B.P.Bhatt
Assistant
ESI Corporation Regional Office
Delhi Region
Rajindra Place
New Delhi

...Applicants

(By Advocate: Shri E.X.Joseph)

Versus

1. The ESI Corporation through
its Director General
Panchdeep Bhavan
Kotla Road, IP Estate
New Delhi-110 002.
2. The Regional Director
Delhi Region
ESI Corporation
Rajindra Place
New Delhi
3. Shri L.D.Kalra
4. Shri M.M.Gupta
5. Shri Kewal Krishan Charan
All working as Assistants in the HQs office of ESI
Corporation, Kotla Road, New Delhi.

...Respondents.

(By Advocate: Shri G.K. Nayyar)

O R D E R (Oral)

(A)

Hon'ble Mr A.V.Haridasan, Vice Chairman (J)

The four applicants who are working as Head Clerks/Assistants in the Employees State Insurance Corporation in the regional office at Delhi have prayed for in this application filed under section 19 of the AT Act, 1985 the following reliefs:

- (i) Grant of orders striking down the All India gradation/seniority list of Head Clerks/Assistants for the recruitment years 1981 and 1982 as on 31.12.1989 issued vide memo No.A-24/14/2/88-Estt.I(B) dated 30.3.90;
- (ii) Grant of orders directing respondents Nos 1 & 2 to make promotions, regular as well as ad-hoc, to the post of Insurance Inspector/Manager Gr.II/Supdt. so far as posts/vacancies arising in the HQs office/regional offices/Directorate(Medical) Delhi from the among the Head Clerks/Assistants regularly appointed and working in the respective offices;
- (iii) Alternatively grant of orders directing respondents No.s 1 & 2 to make promotions, regular and ad-hoc, on thebasis of an All India eligibility list of Head Clerks/Assistants prepared after introducing a weightage factor or any other similar method by which equality of opportunity for promotion is assured to all the Head Clerks/Assistants of the various offices irrespective of the variations in the promotional opportunities available in the respective offices;
- (iv) Grant of orders directing the respondents to follow the method of effecting ad-hoc promotions in the regional office, Delhi from among the Head Clerks/Assistants working in the same office;
- (v) Grant of orders directing the respondents 1 & 2 to fill in the 30 posts/vacancies in the post of Insurance

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Inspector/Manager Gr.II/Supdt. which have arisen in the regional office, Delhi from among the Head Clerks/Assistants working in the same office;

(vi) Grant of orders striking down and quashing any promotions effected to the post of Head Clerk/Assistant in the regional office, Delhi on the basis of an All India eligibility list.

2. The facts leading to the claims put forth in this application lie in a narrow compass. The Employees State Insurance Corporation has 21 regional offices and a central head office. ~~Ministerial~~ post in this Corporation, including the post of Head Clerk is treated as regional cadre and the post of Insurance Inspectors, though in Group-C is being treated as an All India cadre. This aspect is borne out from the Recruitment Rules (Annexure A-I) itself because column 13 of the Recruitment Rules shows that DPC consisted of officers of the Central Headquarters. The Corporation had been treating the post of Insurance Inspectors as one belonging to the All India Cadre and the applicants have also understood and accepted the same as such. The grievance of the applicants arose because while some ~~Ministerial~~ staff who joined the service in certain regional offices very late became UDCs and then Head Clerks within a very short span while in some other regional offices it took a very long period for ~~similar~~ staff to reach the post of Head Clerks. While seniority in the cadre of Head Clerk/Assistant reckoning from the date of entry into the cadre is reckoned ~~for~~ for the purpose of promotions to the cadre of Insurance Inspectors, those who took long time to reach the cadre of Head Clerk/Assistant are comparatively at a disadvantage than those who reached that cadre within a short period. Those who took long time to become Head Clerks/Assistants are naturally dissatisfied with the situation and the applicants, it appears, belong to that category. It is under these circumstances that the applicants prayed that the respondents may be directed to

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make promotions to the Inspectors Cadre reckoning the entire length of service or evolving a policy of giving weightage for length of total service.

3. Official respondents 1 & 2 and the respondents 3 to 6 who are Head Clerks/Assistants and who would be affected by the grant of relief are opposing the prayer of the applicants. We have carefully gone through the pleadings in this case and have heard Shri E.X.Joseph, counsel for the applicants and Shir G.R.Nayyar for the respondents and Shri Mainee for the respondents 3 to 6. It is not necessary for us to deal with the rival contentions in detail put forth in elaborate pleadings, for, the issue involved in this case is quite simple. The sole question to be decided is whether seniority in the feeder cadre is a good criteria for promotion or not. It is well settled ~~in~~ law that the date of entry in the cadre and the length of service determine the seniority. In the absence of any rule to the contrary, the recruitment or seniority rules ~~in~~

~~in~~. Learned counsel for the applicant has not been able to point out that there is any rule either in the Recruitment Rules or in the Seniority Rules which contains a contention contrary to the settled position. Thus the procedure followed by the respondents 1 & 2 in making promotion to the All India Cadre of Inspectors basing ^{on} the seniority of the Head Clerks/Assistants reckoned from the date of entry in the cadre cannot be said to be either arbitrary or violative of the provisions under Articles 14 & 16 of the Constitution.

4. Therefore the integrated seniority of Head Clerks/Assistants reckoning their seniority from the date of entry in the cadre cannot be assailed, though depending on the structure of various regional offices, people took different periods to reach the post of Head Clerk/Assistant. That could be only considered an accident in ^{the} service. It does not spell out any arbitrariness or unfairness.

5. In the light of what is stated above, we do not find any legitimate grievance of the applicants to be redressed in this application. The application fails and the same is dismissed, leaving the parties to bear their own costs.


(K. Muthukumar)
Member (A)


(A.V. Haridasan)
Vice Chairman (J)

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