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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

D.A.NO.2009/92

New Delhi, this the 22nd day of May, 1995

Hon'ble Shri J.P. Sharma, Member(J)
Hon'ble Shri B.K. Singh, Member(A)

Shri M. Mison Mathew,
s/o Shri M.M. Mathew.
r/o Sector-III/509,
R.K. Puram, New Delhi.

... Applicant

By Advocate: None

Vs.

1. Union of India
through the
Secretary,
Ministry of Home Affairs,
New Delhi.

2. Bureau of Police Research & Development
through its
Director(R&D),
New Delhi.

... Respondents

By Advocate: Shri N.S. Mehta,

ORDER (ORAL)

Hon'ble Shri J.P. Sharma, Member(J)

The applicant was appointed as Senior Scientific Officer, Grade I in the Bureau of Police Research & Development(BPRD) by the order dated dated 13.1.1972

and he joined the same post on 19.1.1972. This appointment letter was in pursuance to an order of appointment dated 8.12.1971. The grievance of the applicant is that since last more than 20 years the applicant is working on the same post and has not been provided with any chances of promotion while the persons who

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entered the service later than the applicant on much inferior post of Grade I have been given promotion to the higher post. The applicant has also sought equation with the post of Assistant Director ,BPRD and after unsuccessful representation filed this application in 1992 prayed for the grant of the reliefs that the applicant is entitled to be considered for promotion to the post of Deputy Director as per existing rules by equating him as Assistant Director or in the alternative the rules be quashed as discriminatory and be suitably amended so as to include the post of Senior Scientific Officer,Grade I (SSO) as feeder post for the post of Deputy Director, or frame separate rules providing promotional avenues for SSO Gr.I. The applicant has prayed for grant of another relief that he should be given promotion w.e.f. the date when he has put in 8 years regular service but the application with regard to that relief has not been admitted.

A notice was issued to the respondents who contested this application and did not dispute the fact that there are no promotional avenues for the grade of SSO in BPRD. Further it is denied that the post of SSO can be equated with the post of Assistant Director

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in BPRD on account of different disciplines and the duties discharged by respective incumbents on the post.

The respondents have annexed Annexure R-I the details of duties assigned to the post of Deputy Director and Assistant Director and in Annexure R-II the duties and responsibilities of SSO, Gr.I. The Recruitment Rules, 1973 which were amended in 1986, a copy has been filed as Annexure A-5 goes to show that the post of SSO is not included as a feeder post alongwith Assistant Director. The provision of method of recruitment to the post of Deputy Director goes to show that 33-1/3% is filled by promotion failing which by transfer on deputation and 66-2/3% by transfer on deputation including short term contract, for promotion Assistant Director in BPRD with 8 years' regular service in the grade.

There is also a note appended to the rules the Departmental Officers in the feeder category who are in direct line of promotion will not be eligible for appointment on deputation. For further elaboration of the rules, Rules 11 and 12 are quoted below:-

"11. 33-1/3% by promotion failing which by transfer on deputation (including short-term contract)

66-2/3% by transfer on deputation (including short-term contract).

12. Promotion

Asstt. Director in the Bureau of Police Research & Development with 8 years' regular service in the grade.

Transfer on deputation (including short term contract):

- (1) Officer of the Indian Police Service working in equivalent posts in the State/Central Police Force or officers of the Indian Police Service who are approved for appointment as Dy. Inspector General of Police under the Central Govt.
- (2) (a) (i) Officers of the Central/State Governments/Universities/Recognised Research Institutions/Semi-Govt. Statutory or autonomous organisation.
 - (i) holding analogous posts on a regular basis; or
 - (ii) with 3 years regular service in posts in the scale of Rs.1800-2000; or equivalent; and
 - (iii) with 5 years regular service in posts in the scale of Rs.1500-2000 or equivalent; and
 - (iv) possessing Master's degree in psychology or Sociology or Education from a recognised University or equivalent.

(The Departmental Officers in the feeder category who are in the direct line of promotion will not be eligible for consideration for appointment on deputation. Similarly, deputationists shall not be eligible for consideration for appointment by promotion. Period of deputation/contract including period of deputation in another ex-cadre post held immediately preceding this appointment in the same organisation/department shall not exceed 4 years.)"

The applicant has also filed the rejoinder reiterating the facts already stated in the application and that out of the 6 Asstt. Directors, 2 are I.P.S. Officers who are on deputation to the BPR&D and 4 are non IPS Asstt. Directors. It is further stated

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that the SSOs who are also non IPS officers do not have any rules to be promoted to the post of Deputy Director although the post of SSO and Asstt. Directors are in the same grade and have been treated equivalent for all purposes.

None appears for the applicant. Shri N.S. Mehta appears for the respondents. Since the pleadings in this case are complete and it is an old matter, we have perused the pleadings of the parties alongwith annexures. The averments of the applicant in the application as well as in the rejoinder has substantial force that SSO(T&T) has no promotional avenue and the applicant who joined in 1972 still continuous to hold the same post as there is nothing on record from either side that either he has been promoted to the higher post or in any way given any additional benefit on any other post. The Govt. servant who joined the service aspires for chances of promotion with the advancing age and seniority in the service. It is also to the advantage of the administration provided chances of promotion the efficiency of the employee and his devotion to work is inspired feeling that he will one day get a promotional post. The

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avement of the applicant in the O.A. is that the post of Asstt. Director and SSO (T&T) are equivalent for all purposes cannot be accepted. The chart of the duties filed by the respondents as Annexure to the counter goes to show that the job requirement and the function discharged on both the posts are almost different. Merely because the posts have got the same pay scale or grade would not by itself be taken as for the a feeder post the promotional post of Deputy Director. The Recruitment Rules of 1973 as amended in 1986 do not include the post of SSO as a feeder post for promotion to the post of Deputy Director. There is a provision of filling up of 2/3rd vacancies by transfer on deputation. The learned counsel for the respondents argued that these posts are not open to the departmental candidates who are in different grades and cadre. The respondents have to visualise this position in view of the Rule 12 of the rules which provide for filling the post of non IPS officer from those who are working in the Central Govt. offices/State/ Universities/Corporation and are placed in the same scale of pay. The applicant has not prayed for the grant of the relief in that manner but he has prayed that the rules be amended in order to include an isolated post of SSO as a feeder post for promotion to the post of Deputy Director.

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The respondents have to provide atleast one channel of promotion as held by Hon'ble Supreme Court of India in the case of Raghunath P.D. Singh Vs. Secretary, Police, Govt. of Bihar reported in AIR 1988 SC 1033 and in the case of CSIR Vs. KGS Bhatt reported in 1989(3) JT 513.

In view of the above facts and circumstances, the present application is disposed of with the direction to the respondents to consider the case of the applicant either by framing certain rules providing for promotion to the higher post from the grade of SSO(T&T) or to amend the rules suitably if there is any ambiguity regarding interpretation of the existing rules for inducing SSO working in the same grade taking them on transfer on deputation to the unfilled 2/3 rd vacancies as is done in the case of IPS officers.

The application is disposed of with the aforesaid direction. The respondents will consider the case of the applicant as said above for evolving and providing one promotional avenue. The parties are to bear their own cost.

(B.K. SINGH)
MEMBER(A)

Somnath
(J.P. SHARMA)
MEMBER(J)