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In the Central Administrative Tribunal
Principal Bench: New Delhi.

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O.A.No.372/92.

Date of decision: 14th Oct. 92

K.L. Ghosh and Others

..Applicants

V/s.

Union of India and Others

..Respondents

CORAM:

THE HON'BLE MR. T.S.OBEROI, MEMBER(J).
THE HON'BLE MR. P.C.JAIN, MEMBER(A).

For the Applicants

..Mrs. Sarla Chandra,
Counsel.

For the Respondents

..Ms. Jasvinder Kaur, proxy
counsel for Shri Jog Singh,
Counsel.

JUDGMENT

(Delivered by Hon'ble Mr. T.S.Oberoi, Member(J)):

In this O.A., filed under Section 19 of the Administrative Tribunal Act, 1985, the applicants, three in number, joined as Attendant in Offset Printing in sixties and presently working as Machine Assistant Offset in the office of Government of India Press, Minto Road, New Delhi, are aggrieved by/^{their}non-promotion to the post of Machine Man(Offset) Grade I, in spite of their having the requisite experience and other qualifications. They have prayed for the following reliefs :

"(1)to direct the respondents to decide the seniority and promotion of the applicants first before giving selection and appointment to transferees from Letter Press and outsiders in accordance with Recruitment Rules and Civil Service Regulations.

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(ii) To pass an order allowing the applicants to appear at the Trade Test and interview for the post of Machinemen. "

2. The other necessary details about the applicants' case, briefly stated, are that the Government of India Printing press had two wings, i.e., Offset Printing and Letter Press, and in the year 1986-87, the Department decided to close the Letter Press wing and continue only with Offset Printing. Accordingly, the employees of Letter Press were declared surplus and the Department started transferring them to the Offset Photo Litho Unit (PLU, for short), where the applicants were stated to be working, right since 1963. This resulted in their seniority being disturbed ^{/being given to outsiders,} and placements ^{/to the} detriment of the interests of the applicants. According to the applicants, as per the amended Recruitment Rules, 50% of the posts are to be given to the transferees and outsiders, and remaining 50% by promotion to the feeder categories of posts, which the applicants claim to be holding. But the applicants apprehended ^{/that} 50% of the posts, to which they ^{were} entitled, ^{/also} being given to the transferees/outsideers, without any opportunity or chance being given to the applicants to appear at the trade tests, for enabling them to be promoted as Machine Man Grade I. The applicants also allege that

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the transferees and outsiders are being given only six months' training, and in spite of not possessing the requisite experience of work in Offset, are being promoted in PLU, on the pretext by the respondents that applicants do not possess 5 years' experience as Machine Assistants. Representations by the applicants for the redressal of their grievance in this regard, as per Annexure AI and AII to the O.A., have brought forth no response, and hence this O.A. Even the references made by the Trade Workers Union, on their behalf, have brought forth no result.

3. Amongst the grounds urged by the applicants, in support of their case, they have submitted that the applicants are fully qualified for trade tests as all of them have attained more than 17 years' experience as Attendants whereas qualification required is only 8 years' experience as Attendants. They have also stated that the applicants ought to have been given promotion to Machine Assistant as soon as they completed 3 years work in Offset, as per the Recruitment Rules (Annexure VI) and that the Department must stop further selection/appointment of transferees and outsiders, till the seniority and promotion of the applicants is decided by the Department, according to the Recruitment Rules and Civil Service Regulations. They have alleged that the

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irony of all this is that those who are juniors to them, and have been imparted training by them, on their transfer from Letter Press or from outsider, are being given promotions, and made their seniors, and this may be undone by grant of appropriate relief to them, as prayed for, as above. After filing of the present O.A. and on hearing the applicants, by way of interim relief, it was directed : "that in case trade test is going to be held within the next date given in the case, the applicants be also admitted in the same, but the result of the trade test already held or that of the test to be held, if any, would not be declared till the next date". The order so given has been continuing, from time to time, and is still in force.

4. The respondents, in the counter filed by them, have opposed the applicants' case. Their case is that the applicants were initially appointed as Labourers and later promoted as Attendants. They were further promoted as Feeder which is now re-designated as Machine Assistants (Offset), and the applicants now seek promotion in the next higher grade, i.e., Machine Man (Offset) in the time scale of Rs.1400-2300 but, as per the provisions for promotion in the Recruitment Rules, read with the notification issued by the Ministry of Urban Development on 18-6-90, the applicants' claim is

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not tenable. Further, as per the Recruitment Rules, 100% posts of Machine Man(Offset) are to be filled up by promotion from the Machine Man of PLU failing which 50% by promotion from Machine Assistants of this Unit with 5 years service in the grade and balance 50% by direct recruitment. The respondents' case further is that as per the Recruitment Rules, the training facility was extended to 8 Machine Men of Letter Press Unit out of which only 3 were considered for appointment to the post of Machine Man (Offset), on transfer basis, and further 3 Machinemen of Letter Press Unit were under training. The trade test has also been conducted for consideration of their claim for the post of Machine Man(Offset) on transfer basis and that the remaining two were not interested in training. The chances of getting more candidates from Letter Press Unit were remote even after extending the training period and as such the next option for filling up of these posts was considered. But none of the candidates from feeder category, i.e., Machine Assistant(Offset) were fulfilling all the qualifications as requisite per the Recruitment Rules, i.e., 5 years service as Machine Assistant(Offset). Thus, it was considered appropriate to adopt the third option of the direct recruitment to avoid idling of machines and as such, the action was initiated for recruitment for three posts of Machine Man(Offset), by resorting to

direct recruitment after observing all requisite formalities. Thus, according to respondents, in resorting to this process, everything was done in accordance with the recruitment rules, and the applicants have nothing to be aggrieved ^{with} / the action taken in this regard. It was also averred on behalf of the respondents that the applicants could not be promoted against 50% promotion quota as they do not possess requisite 5 years' service as Machine Assistant(Offset), as prescribed under the statutory Recruitment Rules and that the applicants are only Machine Assistants whereas the transferees from the Letter Press Unit are Machinemen of the Letter Press Unit. It was also ^{/submitted} / on behalf of the respondents ~~submitted~~ that the filling up of the posts is urgently required by the respondents to operate the machines, which are not being used, to their capacity, for want of the full posts having been filled up.

5. Rejoinder has also been filed on behalf of the applicants, in which their earlier submissions in the D.A., have been broadly reiterated, alleging that the Department has shown utter indifference towards their rightful claim for the 50% quota for the posts of Machine Man (Offset) Grade I. They have also asserted that under the pretext of relaxation of recruitment rules, 1987, by letter dated 20-2-91, they have intended to snatch away opportunities of promotion to the

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applicants, who have been working in PLU since 1963, and thus in spite of having put in work for nearly 29 years in Offset Printing in PLU, the Department is now trying to show that the applicants are not qualified, as they do not possess the requisite qualifications under Recruitment Rules, 1987. The applicants thus re-assert their claim to 3 more posts from Letter Press Unit and some out of posts for outsiders, which, the Department had held tests, for filling up the same.

6. We have heard the learned counsel for the parties and have carefully perused the material placed by them on record. It is well known that wherever there are Recruitment Rules, the same have to be scrupulously followed. In the instant case, as per the Recruitment Rules, 1987, the requirement for promotion, as mentioned in column 12 thereof, is as under: -

"Promotion:

(i) Machineman(Offset) Grade II with 3 years service in the grade failing which machineman (Offset) grade I with combined service of 5 years in that grade and in the grade of Machine Assistant(Offset) subject to qualifying in a trade test failing which Machine Assistant(Offset) with 5 years regular service in the grade subject to qualifying at a trade test failing which Attendent(Offset) with 8 years service in the grade in such of the presses where the post of Machine Assistant(Offset) does not exist subject to qualifying in a trade test."

7. A perusal of the record of experience and qualifications possessed by the applicants, goes to show that they fall short of the requirement of the Recruitment Rules, as extracted above. Thus, prima facie, the applicants did not come up to the requisite standard,

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to be promoted as Machineman(Offset) grade I. However, keeping in view certain factors that they had all along been in PLU right from the inception of their service, it would be expedient and in the interest of justice, if they are given a hearing by the respondent concerned, to convince the latter of applicants' ^{/eligibility and} _{/suitability} for promotion as Machineman(Offset) grade I, on the basis of the experience and qualifications, possessed by them, and on the basis of their performance in the trade test, which they were allowed to take up, by the interim order dated 13.2.92. In case the respondents so feel convinced about applicants' suitability for promotion as above, their case may be considered along with those of others who have taken up such test. The OA is disposed of on the above lines with no order as to costs. The stay order earlier granted shall stand vacated.

C. C.
(P.C.JAIN)
MEMBER(A) 14/10/92

T. S. Oberoi 14.10.92
(T.S.OBEROI)
MEMBER(J)