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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

...  
OA No. 324/93

New Delhi, this the 23rd day of July, 1998

HON'BLE SHRI T.N. BHAT, MEMBER (J)  
HON'BLE SHRI S.P. BISWAS, MEMBER (A)

In the matter of:

1. Shri Hukam Pal Sharma  
son of Shri Balli Ram Sharma  
resident of Qr. No. 144, Type. I  
Press Colony, Mayapuri  
New Delhi.
2. Shri Satpal Sharma  
son of Shri Jagdish Ram Sharma  
resident of A-344, Minto Road  
Press Colony  
New Delhi.
3. Shri Ashok Kumar  
son of Shri Ram Charan  
resident of Qr. No. 95, Type. II  
Press Colony  
Mayapuri  
New Delhi. .... Applicant  
(By Advocate: Sh. M.L. Chawla along with  
Sh. S.L. Lakhanpal)

Vs.

1. The Government of India Press, Mayapuri,  
New Delhi through its Manager, Mayapuri,  
New Delhi.
2. The Directorate of Printing,  
Nirman Bhawan,  
New Delhi.
3. Union of India, Ministry of Urban Development,  
New Delhi through its Secretary
4. Shri Ansuiya Parshad, Revisor,  
Govt. of India Press  
Mayapuri, New Delhi.
5. Shri T.K. Sahni, Revisor,  
Govt. of India Press  
Mayapuri, New Delhi.
6. Shri Nand Lal, Revisor employed in  
Govt. of India Press  
Mayapuri, New Delhi.
7. Shri Dharam Singh, copy holder,  
serving in the Govt. of India Press  
Mayapuri, New Delhi.

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8. Shri R.F.Lakra, copy holder, serving in  
Govt. of India Press  
Mayapuri, New Delhi.
9. Shri Subhash Gupta, copy holder, serving in  
Govt. of India Press  
Mayapuri, New Delhi.
10. Shri Inder Parshad, copy holder,  
serving in the Govt. of India Press  
Mayapuri, New Delhi.
11. Shri Mohinder Kumar, copy holder  
Govt. of India Press  
Mayapuri, New Delhi.
12. Shri J.K.Gupta, copy holder, through the  
Manager, Govt. of India Press  
Mayapuri, New Delhi.
13. Shri Nand Lal, copy holder, care of  
Manager, Govt. of India Press  
Mayapuri, New Delhi.
14. Shri Shailender Kumar Nigam, copy holder,  
care of Manager, Govt. of India Press  
Mayapuri, New Delhi.
15. Shri S.C.Ahuja copy holder through  
Manager, Govt. of India Press  
Mayapuri, New Delhi.
16. Shri B.M.Vats, copy holder through  
Manager, Govt. of India Press  
Mayapuri, New Delhi through  
the Manager of the Press.
17. Shri Ved Parkash, copy holder through  
Manager, Govt. of India Press  
Mayapuri, New Delhi.
18. Shri Raj Kumar, copy holder, care of  
Manager, Govt. of India Press  
Mayapuri, New Delhi.
19. Shri Govind Singh Adhikar, copy holder,  
through Manager, Govt. of India Press  
Mayapuri, New Delhi.
20. Shri Vijay Kumar, copy holder, through  
Manager, Govt. of India Press  
Mayapuri, New Delhi.
21. Shri Bhagwan Singh, copy holder, through  
Manager, Govt. of India Press  
Mayapuri, New Delhi.
22. Shri Sukhbir Singh, copy holder, care of  
Manager, Govt. of India Press  
Mayapuri, New Delhi.
23. Shri Shiv Dhan, copy holder, care of  
Manager, Govt. of India Press  
Mayapuri, New Delhi.

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24. Shri Krishan Kant, copy holder, care of  
Manager, Govt. of India Press  
Mayapuri, New Delhi.  
(By Advocate: Sh. K.R.Sachdeva for Resp. No. 1 to 3  
and Sh. O.P.Sood for Resp. No.4 to 24)
- ..... Respondents

ORDER

delivered by Hon'ble Shri T.N.Bhat, Member (J)

The applicants, who are working in the Government of India Press, New Delhi, are aggrieved by the action of the respondents in promoting Resp. No.4 to 24 to the post of Reader in the Press on the basis that the names of the said respondents figured in the panel prepared on 19.4.1980. They are also aggrieved by the Office Memorandum dated 23.4.92 issued by the Dy. Director (Administration) by which it has been directed that those who had qualified in the Readership examination in the past would be eligible for promotion against the seniority cum fitness quota which is 55% of the total number of posts.

2. According to the relevant rules promulgated in 1974 Copy holders and Revisers were eligible for promotion and 100% of the posts of Reader were to be filled up by promotion or direct recruitment through an examination. Admittedly, the private respondents appeared in the Readership examination held in January 1980 and a panel was prepared which consisted of 34 persons including these respondents. Out of the said 34 persons only 6 were promoted and others did not get promotion as there were no further vacancies available. Subsequently, fresh examinations were held and more people passed in the Readership examination, some of who were placed on different panels. One such panel has been annexed to the

OA which bears the date 7.1.91 which is the result of the Readership examination held in the year 1990. This list includes the candidates who qualified against the 55% quota on the basis of seniority as also those who passed in the examination held for filling up 45% quota on the basis of merit. Here, it needs to be mentioned that according to the fresh Recruitment Rules framed in the year 1985 promotion to the post of Reader was to be made in the proportion of 55% against non-selection quota and 45% by selection method. For promotion against the non-selection (seniority) quota, Revisers with 3 years regular service and Copy-holders with 5 years regular service were eligible to be considered on the basis of seniority subject to their qualifying in the trade test called the Readership examination to be conducted by Director of Printing. The remaining 45% were to be filled up on the basis of merit through the Readership examination.

3. Admittedly, the applicants in this OA are junior to those persons whose names were included in the panel of 1980. Furthermore, it is not the case of the applicants that they ever passed in the Readership examination though admittedly they had appeared in the examination once or twice but had failed. Their grievance is that by promoting the persons on the panel prepared in 1980 the applicants' chances of getting promotion against the 45% quota would be blocked. In this connection, they have relied upon the last para of the Annexure to the circular dated 4.3.1976 (P-3) which lays down the rules for holding of the Readership examination. These rules provide specifically that the list of candidates who have

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passed in the Readership examination shall be valid for a period of 2 years or till the result of the next examination, whichever is earlier. According to these rules the examination is required to be held every alternate year in each Press.

4. The respondents, both official as well as the private respondents, have resisted the claim of the applicants by filing detailed counter replies. Shorn of unnecessary details, the pleas raised by respondents are that the private respondents and all others who found a place in the panel of 19.4.1980 were entitled to be considered against the promotion quota and that the applicants have no locus standi to challenge their appointments. It is further averred that the applicants can claim promotion only against the 45% quota and that too if, and only if, they pass in the Readership examination and find a place in the merit list. As regards the office memorandum of 23.4.92 the plea of the respondents is that this OM does not in any manner amend or alter the provisions contained in the 1985 Recruitment Rules but only supplements those provisions and provides that those persons who might have qualified in the earlier Readership examination would not be required to once again appear in the qualifying examination and they would be considered for appointment/promotion against the 55% seniority quota according to their seniority.

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5. The applicants have filed rejoinders to the counter replies filed by the respondents in which they have stated that the OM dated 23.4.92 has no legal or binding force and that no appointment/promotion can be made on the basis of that circular/OM.

6. We have heard the learned counsel for the parties at length and have also perused the material on record.

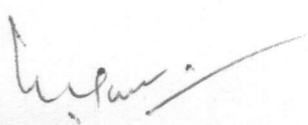
7. Learned counsel for the applicant has strenuously urged before us that the life of the panel prepared in 1980 could not extend beyond the year 1982 as is clearly provided under Readership Examination Rules. He also cites before us the judgment of the Apex Court in Gujarat State Dy. Executive Engineers Association vs. State of Gujarat and Others, reported in 1994 (3) Services Law Journal 5. In the aforesaid judgment the Hon'ble Supreme Court has held that a panel cannot be prepared for unforeseen vacancies nor can a waiting list be used for such posts. It is further held that a waiting list or even a panel cannot have an indefinite life as such a practice may result in depriving those candidates who become eligible for competing for the vacancies available in future of their right to compete. It is also held that the operation of a waiting list should be confined to the vacancies notified for that examination and not for any vacancy arising in future. However, in paras 9 and 10 of the judgment (supra) it has been conceded that if there is a policy decision to continue the life of the panel indefinitely a waiting list can be used even for those vacancies which might not have been notified at the time

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of holding of the examination, though appointment to future vacancies from the waiting list so prepared should be an exception rather than the rule. The learned counsel has also relied upon some judgments of the Tribunal to support his contention that the panel of 1980 was a 'dead' panel and could not have been revived in the year 1992 by issuance of OM dated 23.4.1982.

8. The learned counsel for the applicant has also laid much emphasis on the contention that the OM dated 23.4.92 has the effect of amending/supplanting the Recruitment Rules of 1985 by prescribing a new method of recruitment which, according to the applicant, was not envisaged by the aforesaid Recruitment Rules. It is urged by the learned counsel that Recruitment Rules cannot be altered or amended by executive instructions such as the aforesaid Office Memorandum dated 23.4.92.

9. In reply, the learned counsel for the respondents have argued that the aforesaid OM does not supplant the Recruitment Rules but only supplements them to the extent of making a provision in respect of those candidates who are claiming promotion against the seniority quota but who have already qualified in a previously held Readership examination. The learned counsel further argue that since the applicants had not passed the competitive examination held against the 45% selection quota they could not claim any relief against the private respondents who have been promoted or are due to be promoted against the seniority quota.



10. On a careful consideration of the rival contentions, we are inclined to agree with the respondents' counsel. The reasons are quite simple. Admittedly the applicants have not passed the Readership examination nor do their names figure in any merit list on the basis of which alone they could have claimed promotion to the post of Reader. That being so they cannot assail the promotion of Respondents No. 4 to 24 against the 55% non-selection quota on the sole ground that their promotion would mean revival of the panel prepared in 1980. In our considered view the action of the official respondents in considering respondents No. 4 to 24 for promotion against the non-selection quota does not amount to revival of a dead panel. On the contrary, in accordance with the Office Memorandum dated 23.4.92 the respondents have only given recognition to the earlier examinations held for the purpose of making those persons eligible who might have qualified in those examinations, though they might not have secured promotion in pursuance thereto. Office Memorandum of 1992 does not have the effect of amending the Recruitment Rules of 1985 as there is no provision in those rules to cover such candidates as might have passed in an examination held in the past. To supplement those rules these instructions have been issued only to amend the Readership Examination Rules which were in force earlier and copies of which have been annexed by the applicants themselves to their OA. The aforesaid Readership Examination Rules being executive instructions the same could have been amended or altered any time by issuing fresh executive instructions or office memoranda, as has been done in the instant case.

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11. We are informed by the learned counsel for the parties that the aforesaid Office Memorandum was also later modified in the month of August 1994. A copy of the Office Memorandum issued in 1994 has been filed by the learned counsel for the applicant and on going through the same we find that according to the Dy. Director (Administration) the OM dated 23.4.92 would have only prospective effect and would be applicable only to those examinations which were held after 1985 and not to those which were held prior to that year. Even issuing that such a modification has been done to the OM of 1992, it would not alter the position so far as the instant case is concerned, as this OA was filed in the year 1993 when the OM dated 23.4.92 was in force and applied to even those examinations which had been held prior to the year 1985.

11. The question as to what effect would the Office Memorandum of August 1994 have upon respondents No. 4 to 24 is the subject matter of another OA, being OA No. 2720/97 (B.M.Vats & Others vs Union of India & Others) which is being listed for further hearing shortly.

12. So far as the instant OA is concerned we find no merit in it, in view of the facts and circumstances mentioned hereinabove.

13. In the result, this OA is hereby dismissed, but without any order as to cost.

  
( S.P. BISWAS )  
Member (A)

  
23.7.98  
( T.N. BHAT )  
Member (J)