

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

(W)

O.A. No. 156 of 1987 1987
XKAC/DR

DATE OF DECISION 25/06/1987

V Nandkumaran & Ors. Petitioner

Party in person Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent

J D AJMERA Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. P SRINIVASAN : ADMINISTRATIVE MEMBER

The Hon'ble Mr. P M JOSHI : JUDICIAL MEMBER

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

JUDGMENT

O.A./156/87

25th June, 1987.

Per : Hon'ble Mr P Srinivasan .. Administrative Member

(Dictated in Open Court)

This application has come up for admission today. There are 38 applicants in this application. When the matter was called out, Mr Nandakumaran who is one of the applicants was present on behalf of the applicants. Mr P.N. Ajmera for Mr J.D. Ajmera for the respondent was also present and so we decided to hear the application on merits.

The applicants who were working as Auditors in the grade 330-460 were promoted to the post of Selection Grade Auditor in the scale of Rs. 425-460 between 1981 and 1984. Prior to 1979 the post of Selection Grade Auditor was treated as one involving the assumption of higher responsibility for the purpose of initial fixation of pay. Therefore, on promotion as Selection Grade Auditor, Auditors got the benefit of Fundamental Rule 22-C.

By circular dated 20.9.1979, the Comptroller and Auditor General of India directed that the existing scale of Rs. 425-640 for Selection Grade Auditor be revised to Rs. 425-700 and the post of Selection Grade Auditor be treated as a non-functional post. As a result of this order, an auditor who was promoted as Selection Grade Auditor after the date of the said Circular was not allowed the benefit of Fundamental Rule 22-C in pay fixation.

Mr. Nandakumaran reiterated that he and the other

P. Srinivasan

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applicants had discriminated against. He relied on the judgment of the High Court of Karnataka in writ Appeal No. 575/80 decided on 22.1.1986, K.V. Rama Rao v. Chief Conservator of Forests.

Mr P.N. Ajmera, learned counsel for the respondents urged that classification of posts into functional and non-functional posts was the exclusive sphere of administration. It was therefore a purely administrative decision. The applicants have not alleged that the change in the description of the post of Selection Grade Auditor as a non-functional post was made malafide, or to hurt any particular person. This was a package deal with two parts extending the scale to Rs. 700/- and treating it as a non-functional post. Therefore, this Tribunal should not interfere with the administrative decision. All that this Tribunal can do is to see whether there was anything arbitrary or malafide about this action. The decision of the Karnataka High Court was based on the peculiar facts of that case which are different from those of the present one. There was no question of discrimination merely because of the change of description of a post which was ordered for administrative reasons.

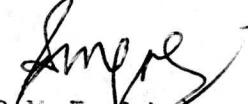
We agree with Shri Ajmera and hold that there was nothing illegal about the Circular of 20.9.1979 reclassifying the posts of Selection Grade Auditor as non-functional posts. It is indeed for the administration to classify posts and as long as there is nothing to show that it was done to hurt somebody in particular, action in this regard cannot be held to be bad. We, therefore, see no merit in this application.

Before parting with this application, we may also mention that the circular by which it was decided that the post of Selection Grade Auditor should be classified as non-functional was issued in 1979. The applicants were promoted as

Selection Grade Auditors between 1981 to 1984. The present application was filed on 31.3.1987. Therefore, this application deserves to be dismissed on the ground of limitation also.

In the result, the application is rejected at the stage of admission itself.


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(P Srinivasan)
Administrative Member


(P M Joshi)
Judicial Member