

5  
vi  
9

CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH, : CUTTACK.

ORIGINAL APPLICATION NO:294 OF 1987.

Date of decision : **October 11, 1990.**

**V. RAMA RAO**

.... APPLICANT

**-VERSUS-**

**UNION OF INDIA AND ANOTHERS .... RESPONDENTS**

---

For the applicant : **M/s. C.A.Rao, P.K.Parida,**  
**Advocate.**

---

For the Respondents : **Mr. Tahali Dalai,**  
**Additional Standing**  
**Counsel (Central)**

---

**C O R A M:**

**THE HON'BLE MR. B.R.PATEL, VICE-CHAIRMAN**

**A N D**

**THE HON'BLE MR. N.SENGUPTA, MEMBER (JUDICIAL)**

---

1. Whether reporters of local papers may be allowed to see the judgment ? Yes.
  2. To be referred to the reporters or not ? No.
  3. Whether Their Lordships wish to see the fair copy of the judgment ? Yes.
-

JUDGMENT

10

N.SENGUPTA, MEMBER (J), The applicant is a Surveillance Inspector (Malaria) under the Dandakaranya Project, Malakanagir Zone, District Koraput. The case of the applicant is that he was appointed as a Surveillance Inspector in 1972 and continued in that post till the filing of the application in October, 1987. In the year of 1979 he represented to the Dandakaranya Development Authorities for being promoted to the post of Malaria Inspector. In response to his representation, the authority intimated him that in order to be promoted he was to acquire a qualification i.e. he had to undergo a Training in Malariaiology or Malaria Microscopy. The Chief Medical Officer recommended his case to the Regional Director, Health and Family Welfare, Bhubaneswar vide his letter dated 8.8.1980 ~~vide~~ (Annexure-1) for undergoing training. He underwent training ~~in~~ in Microscopy and obtained a certificate vide annexure-2. After completing the training, he was asked to examine blood slides, the work done by Malaria Inspector and Senior Malaria Inspectors. He was entrusted with the work of such Inspectors at different times between 1982 to September, 1987, but he was not paid the salaries payable to Malaria Inspectors/Senior Malaria Inspectors

*Act. Lep. b  
11/10/90*

He had made a representation for payment of Salary in the scale of pay for Malaria Inspectors but the same was rejected in June, 1985 on the ground that he didnot possess the requisite qualification for working as Senior Malaria Inspectors/Technician, a copy of this rejection is Annexure-5 to the application. Thereafter he submitted several representations but he has not received any reply thereto. Some others such as Shri S.K.Bhuyan and Shri K.C.Acharya who were first promoted and they were subsequently asked to acquire the training qualification but he was discriminated against and thus, the clause of equality enshrined in articles 14 and 16 of the Constitution of India was violated. His further case is that the Government of India in their letter dated 29.7.1978, vide Annexure-7, issued directions for the grant of Selection Grade to an employee who had crossed 3/4th span of the revised scale of pay of the ordinary grade and he by the time of making representation had put in 16 years of service and had crossed the above stage. Making these allegations, the applicant has prayed for an order or directions declaring him to be entitled to be promoted as Senior Malaria Inspector/Technician and a further direction to fix his pay in the selection Grade scale as envisaged under Annexure-7 and finally to pay him the salary

*Mem. Secy 11/10*

8 IX  
12

of a Senior Malaria Inspector/Technician as he performed the same work and duties as the persons manning these posts.

2. The Respondents in their reply have taken the plea of bar of limitation under Section 21 of the Administrative Tribunal's Act, 1985 and they have averred that initially the applicant was appointed against a Group 'D' posts in January, 1963 and promoted to the post of Surveillance Inspector with effect from 6.1.1972. The post of Malaria Inspector is to be filled up by Promotion on selection basis. According to the Recruitment Rules, vide Annexure-R/3, the qualifications prescribed are matriculation or equivalent, Training in Malariaiology, and minimum two years' experience in Malaria Eradication work. According to the Respondents the applicant does not possess the requisite qualification for his promotion to the post of Senior Malaria Inspector. It is of course true that the applicant had undergone a training but it was for short period of twenty eight days from 19.8.80 to 17.9.80 and that was a Training for Microscopist and not malariaiology. With regard to the claim of the applicant for fixing his pay in the Selection grade, it is stated that there is no selection grade in the cadre of Surveillance Inspectors

*Mr. Lai 11/10/80.*

13

and according to the recommendations of the fourth Central Civil Services Pay Commission, creation of selection grade posts in Group 'C' and Group 'D' have been prohibited. The case of the Respondents further is that all the work that the applicant claims to have done were those of the posts to which he was appointed <sup>the</sup> and not work of Senior Malaria Inspector or Technician. In short, the case of the Respondents is that the applicant never performed the duties of a higher post nor did he acquire the requisite qualification for holding higher posts therefore, this application is misconceived.

3. We have heard Mr. P.K. Parida, learned Counsel for the applicant and Mr. Tahali Dalai, learned Additional Standing Counsel (Central) for the Respondents. Mr. Dalai has very vehemently urged that the relief claimed by the applicant is barred by limitation and in this connection he has referred to Annexure-5 which is dated 17.6.1985; by this letter intimation about the rejection of a representation by the applicant for his promotion to the post for Senior Malaria Inspector/Technician was sent. As already stated above, the present application was filed in October, 1987 i.e. much after the period of one year when this Tribunal was established, therefore, the case comes within the mischief of Section 21(2) of the Administrative Tribunals Act, 1985. It is true that

*Neeraj  
11/10*

applicant thereafter, made another representation in October, 1986 but it is now settled beyond controversy that successive representations don't save limitation.

4. Now coming to the merits of the case, it goes without saying that the applicant was not promoted to the rank of a Malaria Inspector or a Technician but the applicant has made claim for salary etc. alleging that he did the same work as Senior Malaria Inspectors/Technicians. The applicant has filed Annexure-4 series in support of his plea that he was entrusted to do the work of Malaria Inspectors or Technicians at different junctures of time but these annexures do not support such a plea. Under Annexure-4 the applicant and another were asked to be incharge of or to lookafter residual spraying work. To lookafter the spraying work is not the sole duty of a senior Malaria Inspector. From Annexure-4(1) it would be found that in fact once Shri K.C.Acharya was to be incharge of this spraying operation but two Surveillance Inspectors, were to be incharge of the residual spraying. Thus Annexure-4(1) is of no avail to the applicant. Under Annexure-4(2) the applicant was directed to lookafter spraying operation as the Senior Malaria Inspector was on medical treatment that does not mean that the applicant was asked to function as a Senior Malaria Inspector. Under Annexure 4(3) the applicant and another Surveillance Inspector

Recd  
11.10.90  
Net

along with two senior Malaria Inspector were directed to start spraying in the areas shown against their respective names and this again was not <sup>of</sup> much consequence. Annexure-4(4) and 4(5) are documents of the same nature. The Respondents have annexed the Recruitment Rules for senior Malaria Inspector/Malaria Technician and that is Annexure-R/3. From this Annexure it would be found that the essential qualifications both for a direct Recruit and a Promotee are the same and the requisite qualifications are educational qualification :Matriculation or equivalent Training in Malariology. From the same Annexure it would be found that for a Malaria Technician educational qualification necessary is B.Sc degree from a recognized University besides other qualifications. A Surveillance Inspector of course is to be <sup>a</sup> matriculate but he need not have other qualifications as prescribed for a Senior Malaria Inspector or a Malaria Inspector. The posts of Malaria Inspector and Senior Malaria Inspector are Selection Posts. From Annexure-R/6 it would be found that no course for training Malaria Inspector was being organised but however for Malaria Microscopy work a training was being <sup>imparted</sup>. This would suggest that a Training for microscopy work is different from the training of that a malaria Inspector or a Senior Malaria Inspector is to undergo. The applicant has not produced any evidence of having undergone a training in Malariology. Therefore,

*Enclosed*

*Recd 11/10*

16

he lacks an essential qualification for holding the post of senior Malaria Inspector or Malaria Inspector.

5. In view of what has been stated above, the claim of the applicant for being considered for promotion to the post of Malaria Inspector or Senior Malaria Inspector or Technician cannot be entertained. At the cost of repetition, it may once again be said that Annexure-4 series do not justify an inference that the applicant was doing all that a Malaria Inspector or a Senior Malaria Inspector had to do.

6. With regard to the prayer of the applicant that he should be given a selection grade it may be stated that there is absolutely no material to come to the conclusion that any selection grade has been prescribed for Surveillance Inspector therefore, it is not possible to give a direction to promote the applicant to the selection grade.

7. For what has been stated above the applicant is not entitled to any of the reliefs. The application is accordingly disposed of without costs.

*Banerjee* 11.10.90  
.....  
VICE-CHAIRMAN



*Mohanty* 11.10.90  
.....  
MEMBER (JUDICIAL)

Central Administrative Tribunal  
Cuttack Bench, Cuttack/K.Mohanty