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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH.

Original Application No. 310 of 1991.

Cuttack, dated the 5th October, 1994.

Sodhan Kumar Dey and others ...

Applicants

versus

Union of India and others ...

Respondents.

(FOR INSTRUCTIONS)

1. Whether it be referred to the Reporters or not ? Yes
2. Whether it be circulated to all the Benches of the Central Administrative Tribunals or not ? No


(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

05 OCT 94


(D.P. HIREMATH)
VICE-CHAIRMAN

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CORAM:

THE HON'BLE MR.JUSTICE D.P.HIREMATH, VICE-CHAIRMAN

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THE HON'BLE MR.H.RAJENDRA PRASAD, MEMBER(ADMN.)

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1. Sodhan Kumar Dey, aged about 47 years, son of Sasudhan Dey, at present working as Poultry Assistant.

2. Kumar Mallik, aged about 45 years, son of late Jatadhar Mallik at present working as Poultry Assistant.

3. Sachidananda Barik, aged about 35 years, son of late K.C. Barik, at present working as Poultry Assistant.

All are working in the Office of the Central Poultry Breeding Farm, Bhubaneswar, District. Puri.

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Applicants.

By Advocates

M/s.Devanand Misra,
Deepak Misra, Anil Deo,
B.S.Tripathy,

Versus

1. Union of India, represented through its Secretary in the Department of Agriculture, and Co-operation, Krishi Bhawan, New Delhi.

2. Director, Central Poultry Breeding Farm, Bhubaneswar, Dist. Puri.

3. Assistant Director, Central Poultry Breeding Farm, Bhubaneswar, Dist. Puri.

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Respondents.

By Advocate Shri Ashok Misra,
Sr. Standing Counsel(Central)

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ORDER

D.P.HIREMATH, V.C., Heard Shri B.S.Tripathy, learned counsel for the applicants and Shri Ashok Misra, learned Sr. Standing Counsel(Central) for the respondents.

2. The short point for consideration is whether all the three applicants herein are entitled to ~~for~~ promotion as Farm Supervisors. They were recruited as Poultry Assistants on 10.1.1966, 19.3.1976 and 26.6.1985 respectively. The Recruitment Rules were drastically changed in the year 1977 by ~~Notification~~ of the Government of India dated 10.2.1977. As far as Farm Supervisors are concerned, the avenue of promotion was closed once for all and ~~that~~ the post would be filled up by direct recruitment but till this ~~Notification~~ was issued the promotional avenues were open ~~even~~ to Poultry Assistants and the ratio was 33% by promotion from the cadre of Poultry Assistants and 67% by direct recruitment. This is how perhaps the applicants herein have prayed for striking down the Recruitment Rules prescribing cent percent recruitment to the grade of Farm Supervisors. If the Government thought it necessary that better persons should be recruited and particularly for the Farm Supervisors, it cannot be said that it affects the fundamental rights of the applicants herein, and we are only to consider whether all the applicants could be debarred by virtue of this notification of the Government.

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3. As we have indicated earlier, the applicants 1 and 2 were recruited much earlier to the issuance of this notification namely 10.1.1966 and 19.3.1976. When they continued in service the conditions of service were altered to their detriment thus closing the promotional avenues to them. When they were recruited, they entered the service with a clear understanding and hope that they would get promotion whenever eligible and if found suitable to the post of Farm Supervisors. It is the basic tenets of service law that if service conditions are changed in the continuance of service of a Government servant then the service conditions which were applicable to him when he joined service are applicable. So, the applicants 1 and 2 cannot be said to be disqualified for being promoted to the post of Farm Supervisor. As far as applicant No. 3 is concerned as he was recruited on 26.6.1985, he is governed by the notification dated 10.2.1977. Therefore, we are of the view that the applicant No. 3 cannot contend that he should be considered for promotion.

4. As the applicants 1 and 2 were eligible for promotion after they put in 3 years of service, in our opinion, if they are fit in every respect and qualify and their service records do make them eligible for promotion they are entitled for promotion. We, therefore, allow the application and direct that the applicants 1 and 2 shall be considered for promotion in the light of the Recruitment Rules prevailing when they were

appointed and if they are qualified and found fit by the Departmental Promotion Committee, they shall be considered for promotion within the ratio available for them when they became so eligible. If at all when they became eligible for promotion there were no posts vacant, then supernumerary posts be created and they be promoted to the said posts. We hereby direct the Departmental Promotion Committee shall consider their eligibility and fitness within 30(thirty) days from the date of receipt of a copy of this order and thereafter the ~~question~~ ^{question} of creation of supernumerary posts, if necessary, shall be considered and disposed of within 90(ninety) days thereafter. Copy of the order shall be delivered to the learned counsel for the applicants and respondents forthwith.

No costs.


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(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

05 OCT 94


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(D.P. HIREMATH)
VICE-CHAIRMAN.

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