

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM

O. A. No. 536/89
XXXNo.

199

DATE OF DECISION 10-8-1990

K.M.D. Unnithan and Applicant (s)
M.A. Somasekharan

S/ Shri K. Ramakumar & Advocate for the Applicant (s)
VR Ramachandran Nair
Versus

Union of India rep. by Secy., Respondent (s)
Ministry of Finance, Deptt. of
Revenue and 2 others

Shri P. Santhosh Kumar, ACGSC Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. N.V. Krishnan, Administrative Member

The Hon'ble Mr. N. Dharmadan, Judicial Member

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

JUDGEMENT

(Shri N.V. Krishnan, Administrative Member)

This application has been filed against the alleged discrimination in the provisions of the rules relating to the promotions of Upper Division Clerks, (UDCs, for short) as Inspector of Incometax on the one hand and Inspector of Central Excise on the other in the two Departments.

2. The basis of this allegation can be briefly summarised as follows:-

2.1 The first applicant represents the Central Excise Ministerial Officers Association and the second applicant is a UDC in the Central Excise Headquarters Office, Cochin. It is submitted that the post of Inspector/Central Excise (Ordinary Grade) is filled up to the extent of 75% by direct recruitment and the remaining 25% is alone filled

up by promotion of UDCs and Tax Assistants, the latter also being promoted from the grade of UDCs.

2.2 As against this, in the Incometax Department only 1/3rd of the cadre strength of Inspectors Ordinary Grade is filled up ^{by} direct recruitment and the remaining 2/3rd is filled by promotion of UDCs.

2.3 It is contended that the duties and functions of the Income-tax Inspectors as well as the Inspectors of Central Excise in Customs have been found by the 4th Pay Commission to be identical. Hence, there should be a similar identity in the matter of recruitment by promotion in so far as it concerns the percentage of the cadre strength earmarked ^{for} by promotion of UDCs. Hence, they contend that the percentage earmarked for promotion of UDCs/Tax Assistants as Inspectors of Central Excise Ordinary Grade should be raised from 25% to 2/3rd, i.e., $66\frac{2}{3}\%$.

3. The respondents have filed a reply denying the reliefs claimed by the applicants. They contend that the Recruitment Rules have been framed to suit the special needs of each department and are not comparable.

4. We have perused the records of the case and heard the learned counsel and we are of the view that this application is devoid of any substance.

5. The 4th Pay Commission has not observed (as can be seen from the extracts reproduced in the application) that the Inspectors of Incometax and Inspectors of Central Excise and Preventive Officers, Customs are discharging identical duties is not correct. What the Commission stated was that the 3rd Pay Commission had recommended a uniform pay scale for all these posts on the consideration that their duties and responsibilities were comparable.

The Commission was only informed that the duties and responsibilities of the functionaries of the Customs and Excise side are not less onerous than that of an Inspector of Income Tax. The Commission itself did not give any finding but relying on this evidence it did recommend the same scale of pay for the posts of Inspector of Income Tax, Inspector of Central Excise, Preventive Officer and Examiner.

6. It is surprising that while the applicants who rely heavily on the 4th Pay Commission's recommendations they have ignored the fact that their demand is contrary to the recommendations of the 4th Pay Commission in para 10.206 of its Report. In that para, the 4th Pay Commission had observed that while the percentage fixed for direct recruitment to the post of Inspectors Ordinary Grade in the Central Excise and Customs Department was as high as 75%, the corresponding percentage in Income-tax Department was only 33%. It, therefore, recommended that as there was no direct recruitment at the Group 'B' level in the Income-tax Department, the percentage of direct recruitment at the level of Inspector of Income-tax may be suitably increased. There was no further recommendation that the percentage fixed for direct recruitment of Inspectors Ordinary Grade in the Excise and Customs Department should be reduced, in case the Govt. of India did not find it possible to accept their recommendation for fixing a much higher percentage for direct recruitment. The applicant's plea is actually rested on this ground. It is contended that as the respondents have been unable to increase the percentage fixed for direct recruitment in the Income-tax Department, though they

had accepted para 10.206 of the Report of the 4th Pay Commission's Recommendation, it is only ~~that~~ just that the percentage of direct recruitment fixed in the Excise Department be also reduced to the same level as in the Income-tax Department on the ground that all the posts are in identical nature. There is some apparent logic in this demand but it does not make any sense and is against the recommendations of the 4th Pay Commission.

7. That apart, the respondents have stated in their counter affidavit that the duties and responsibilities of the Inspectors of Central Excise are of an executive nature involving stress and strain. Therefore, the Department requires persons "with full nerve and verve" which can be provided only by young direct recruits.

It is for this reason that the percentage of direct recruitment has been kept high in this Department.

Such a situation does not obtain in Income-tax Depart-

ment where the duties are essentially confined to the
xxx The respondents have thus given their own reasons

for prescribing different percentages for direct recruitment in the Income-tax Department on the one hand and in the Central Excise Department on the other. They have thus sought to justify the differences in the recruitment rules on the basis of valid reasons, irrespective of whether one agrees with these reasons or not. This

8. We are of the view that the disputed issue is whether the percentage of the cadre strength filled up by direct recruitment or reserved for promotion should be the same in the Income Tax Department and the Central

Excise Department ~~max~~ is a matter of policy, Merely because the pay scale of the posts of Inspectors Ordinary Grade in the two Departments is the same, it does not follow that the recruitment rules should also be the

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the same

same, in ~~that~~ manner that, merely on the basis of identical pay scales and similar duties, one cannot demand that the Inspectors of Income Tax should also wear uniforms like the Inspectors of Excise or vice versa.

9. For the foregoing reasons, we find this application is devoid of any substance and hence it is dismissed.

10. There will be no order as to costs.

N. Dharmadan

(N. Dharmadan) 10.8.90
Judicial Member

N.V. Krishnan

(N.V. Krishnan)
Administrative Member

10-8-1990