

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. No. 13/97

Thursday, this the 16th day of September, 1999.

CORAM:

HON'BLE MR AM SIVADAS, JUDICIAL MEMBER

HON'BLE MR G RAMAKRISHNAN, ADMINISTRATIVE MEMBER

A.A. Alia,
W/o. Paulose P.K.,
Safaiwala,
Government of India Press,
Koratty, (residing at
Government Quarters, 13/IV, Koratty).

...Applicant

By Advocate Mr. M.R. Rajendran Nair

Vs,

1. The Manager,
Government of India Press,
Koratty.
2. The Director,
Directorate of Printing,
B-Wing, Nirman Bhavan,
New Delhi - 11.

...Respondents

By Advocate Mr. S. Radhakrishnan, ACGSC

The application having been heard on 16.9.99, the
Tribunal on the same day delivered the following:

ORDER

HON'BLE MR AM SIVADAS, JUDICIAL MEMBER

The applicant seeks to quash A-6 and to declare that she is entitled to be promoted as Assistant Binder in the 5% quota reserved for appointment by transfer of Group 'D' employees and to direct the respondents to grant her such promotion atleast with effect from the date of occurrence of the 20th vacancy in the category with all consequential benefits.

2. The applicant is aggrieved by the refusal on the part of the respondents to grant her promotion as Assistant Binder in

the scale of pay of Rs. 950-1500 against 5% vacancies reserved for appointment by transfer from among Group 'D' employees with nine years of regular service in the respective grades. She is working as a Safaiwala in the scale of pay of Rs. 750-940 under the 1st respondent since 23.8.1966. As per recruitment rules, 5% vacancies in the category of Assistant Binder were to be filled by promotion from various categories including that of Safaiwala. A trade test was conducted and the applicant came out successful in the trade test. With effect from 25.9.93, by virtue of amendment of the rules, appointment to 5% vacancies in the category of Assistant Binder was to be made by transfer from employees of various lower grades. There is no substantial difference in the method of promotion and transfer. The applicant being the seniormost in the feeder category became eligible to be appointed as Binding Assistant. A-2 representation dated 23.4.96 was submitted by her to the 1st respondent praying for promotion. Subsequent representations were also submitted. As per A-6 impugned order, she was informed that in view of the change in recruitment rules, her request for transfer to the post of Assistant Binder could not be considered. So far, more than 20 vacancies in the category of Assistant Binder have been filled up and therefore, one vacancy should have been granted to Group 'D' employees for appointment by promotion/transfer.

3. Respondents contend that method of appointment specified in the earlier and present recruitment rules are distinct from one another with substantial difference. In the earlier recruitment rules, eligible categories for promotion to the grade of Binding Assistant against 5% quota were only Durwan, Chowkidar, Farash and Safaiwala whereas as per the new

recruitment rules, all Group 'D' employees except labourers are made eligible for transfer to the grade of Assistant Binder against 5% quota. The present recruitment rules provide for filling up of 5% vacancies in the grade of Assistant Binder only by transfer from Group 'D' employees with nine years of service in the respective grades subject to qualifying in the trade test. So, unless the number of appointments in the grade reaches 20th mark there can be no quota for Group 'D' employees for transfer to the grade of Assistant Binder against 5% quota. 5% quota for transfer from Group 'D' employees as provided in the recruitment rules will count from the date from which recruitment rules came into effect and not from an earlier date.

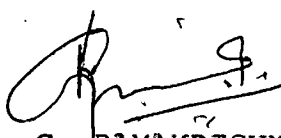
4. There is no dispute as to the fact that the applicant appeared for the trade test and came out successful and thus qualified to get the post of Assistant Binder in accordance with the rules prior to its amendment in the year 1993. The stand of the respondents is that after the amendment of the recruitment rules with effect from 25.9.93, the 5% quota from Group 'D' employees is to count from the date of the commencement of the amendment and that being so, the Group 'D' employees will reach their turn only on the 20th vacancy arising. It is pertinent to note that under the old rules and as per the amended rules, the quota for Group 'D' employees to get appointment as Assistant Binder remains the same i.e., 5%. No reason is stated in the reply statement by the respondents for saying that 5% quota for transfer from Group 'D' employees as provided in the amended recruitment rules is to be counted from the date on which the amended recruitment rules came into force. It would have become necessary if there is a change in the percentage of quota. It is undisputed that there is no change in the percentage of quota. As the respondents say that only 11 appointments

have been made in the category of Assistant Binder from 25.9.93, the date on which the amended recruitment rules came into force, the applicant will reach her turn if she is the seniormost only when the 20th appointment is to be made. The learned counsel appearing for the applicant submitted that there is no necessity to count this 5% quota from 25.9.93 and the old roaster is to continue since there is no change in the percentage of quota. We do not find any reason to hold that 5% quota for transfer from Group 'D' employees is to be counted from 25.9.93 as contended by the respondents. In that context, the applicant is to be granted promotion on occurrence of the 20th vacancy in accordance with the roaster prior to 25.9.93. The learned counsel appearing for the respondents submitted across the bar that there were 12 vacancies to the post of Bindery Assistant including 4 anticipated vacancies prior to the amendment of the recruitment rules in the year 1993, that out of the said 12 vacancies, 11 were required to be filled under 50% promotional quota and one post was available against 5% promotional quota from amongst the Group 'D' Non-Industrial employees and that out of 12 vacancies, 8 vacancies falling under the promotional quota has already gone under ban for remaining vacant for more than one year at the time of conducting the trade test in October 1992.

5. In the light of what we have stated above, A-6 cannot be sustained and is liable to be quashed. Accordingly, A-6 is quashed. It is declared that the applicant is entitled to be promoted as Assistant Binder in the 5% quota, if she is the seniormost among the eligible Group 'D' employees as per the amended recruitment rules, reserved for appointment by transfer of Group 'D' employees.

Respondents are directed to consider the grant of such promotion with effect from the date of occurrence of the 20th vacancy in that category. There is no order as to costs.

Dated this the 16th day of September, 1999.


G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER


A.M. SIVADAS
JUDICIAL MEMBER

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LIST OF ANNEXURES REFERRED TO IN THIS ORDER

1. Annexure A-2:

True copy of the representation dated 23.4.96 submitted by the applicant to the 1st respondent.

2. Annexure A-6:

True copy of the Office Memorandum No.23011/1/107/EI/4750 dated 26.11.1996 issued by 1st respondent.