

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM

O.A. No.  
~~XXXXXX~~

184

1990

DATE OF DECISION 31.12.1990

U.A.Sethumadhavan Applicant (s)

N/s MR Rajendran Nair & Advocate for the Applicant (s)  
PV Asha

Versus

The Manager, Govt. of India, Respondent (s)  
Press, Koratty & 2 others





Mr.PK Suresh Kumar, ACGSC Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. S.P.Mukerji - Vice Chairman

and

The Hon'ble Mr. A.V.Haridasan - 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

(Mr.A.V.Haridasan, Judicial Member)

In the application under Section 19 of the Administrative Tribunals Act, the applicant<sup>a</sup>/Copy Holder in Government Press, Koratty, prays that the respondents ~~may~~ be directed to consider his claim for promotion with effect from the date of occurrence of vacancy and to grant him all consequential benefits.

2. The applicant who joined the service of the first respondent in 1972 as a Binding Assistant became a Copy Holder in 1981. Having passed the KGTE course in proof reading, with three years service as copy holder he became

...2/-



eligible to be promoted as Revisor which is the next higher post. There is another post viz. Reader. But to get promotion to that post one has to pass an All India test which is not conducted every year. In Government Press, Koratty there is vacancy of Revisor. In the work study conducted in 1980 Government found that 2 posts of Revisors are necessary at Koratty. But that post was not filled up as the surplus hand at Coimbatore was adjusted. Though the surplus incumbent at Coimbatore has vacated the post, the post at Koratty is still left unfilled by promotion because the authorities consider that there is a ban on filling up the post by promotion. As per <sup>the</sup> Recruitment Rules the posts of Revisors are to be filled up 100% by promotion failing which by deputation and failing which by direct recruitment. As the respondents did not take steps to fill the existing post of Revisor by promotion, the applicant made a representation dated 21.2.1990, at Annexure-I. But as the request was rejected, the applicant has filed this application alleging that the refusal to consider him for promotion while a vacancy exists for a long time is irrational, unreasonable and unjust.

3. The respondents admit that the applicant is qualified and eligible to be considered for promotion to the post of Revisor and that <sup>the</sup> ~~only~~ promotional avenue for the category to which the applicant belongs is the post of Revisor. It is also agreed that a vacancy of Revisor exists in the Government Press, Koratty. But the first

respondent has contended that as the Norms Committee in its report dated 17.2.1980 has recommended that the post should be adjusted against the surplus in Coimbatore, and as subsequently the Directorate has issued instructions, Annexure-R1(b) dated 14.5.1981 banning the filling up of this post till such time as surplus hands in the various presses are all wasted out, it is not possible to consider the case of the applicant for promotion until the ban is lifted.

4. We have heard the arguments of the learned counsel for the parties and also gone through the documents and pleadings carefully. The case of the applicant that he became eligible for promotion as Revisor in 1984, and that a post is vacant in the Government Press, Koratty which is a recruiting unit is not disputed. Admittedly a post of Revisor remains unfilled from 1981 onwards.

The mode of recruitment as per the Recruitment Rules is 100% by promotion failing which <sup>by</sup> ~~by~~ deputation and failing which by direct recruitment. So, from 1984 onwards the applicant, the senior most Copy Holder qualified for promotion as Revisor has not been considered for promotion, though a vacancy existed. In S. Govinda Raju Vs. KSRTC and others (AIR 1986 SC 1680) the Supreme Court has held that once a candidate is selected and his name is included in the select list for appointment in accordance with the regulations he gets a right to be considered for appointment as and

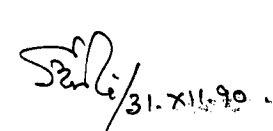
when vacancy arises. Here, since the Recruitment Rules provide for 100% promotion for filling of the post of Revisor, and as the applicant had become eligible for promotion as per rules, he got a right to be considered for promotion, on his attainment of the eligibility and on occurrence of vacancy. The applicant's case is that the Govt. Press is a recruitment unit is not disputed by the respondents. That the method of appointment to the post of Revisor as per Recruitment Rules is 100% by promotion is also not in dispute. That being so, refusal to fill up the vacancy in accordance with the Recruitment Rules, taking shelter under some Norms Committee report, or some administrative instructions from the Directorate and adjustment of that vacancy against surplus hands in various similar Government Presses is quite unjustified. When the Recruitment Rules provide for filling up of the post by promotion and when qualified hands are available for promotion, it is against the Recruitment Rules to fill the post by adjustment of surplus. Administrative instruction cannot be made by-passing the Recruitment Rules. Further the most curious aspect of the case is that even while according to the Norms Committee's recommendation, two Revisors are required at <sup>the</sup> Government Press, Koratty, what the respondents are doing is wasting out without appointing <sup>any one</sup> ~~a man~~ to meet the requirement at Koratti surplus Revisors in other units. The intention of the respondents is not to fill the post by promotion, until

all the surplus Revisors in different Presses are wasted out. Admittedly there is work for two Revisors in the press at Koratty and the work is being done according to the applicant by him and other Copy Holders without getting any additional remuneration. Though the first respondent has stated in the reply that the allegation that the work is being done by applicant and other Copy Holders, it has not been said ~~then~~<sup>how</sup> how the work is being managed. Then, when there is work for two Revisors in Koratty, the respondents without filling the one vacancy by promoting the eligible hand, are adjusting the post against some surplus Revisors in some distant place without even transferring him to Koratty. Such a practice is quite unjust and impermissible. If any post is surplus, ways and means to accommodate the incumbent either sending him to surplus cell or some other methods without detriment to the rights of eligible persons for promotion has to be found out. It is unjust to let a person stagnate in one post for adjusting several surplus persons in several units successively. Therefore, we are convinced that the applicant is entitled to have his claim for promotion considered and to be appointed to the post of Revisor if found suitable and that the ban imposed by the directorate is unsustainable.

✓ 5. In the result, we allow the application and direct the respondents to consider the applicant for

promotion to the post of Revisor in Government Press,  
Koratty and to promote him to that post if he <sup>is</sup> not  
otherwise unsuitable for promotion. Action <sup>on</sup> the  
above lines should be completed within a period of  
two months from the date of communication of this order.  
There will be no order as to costs.

  
(A.V. HARIDASAN)  
JUDICIAL MEMBER

  
(S.P. MUKERJI)  
VICE CHAIRMAN

31.12.1990