

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

DATED MONDAY, THE NINETEENTH DAY OF JUNE ONE
THOUSAND NINE HUNDRED AND EIGHTY NINE

PRESENT

HON'BLE SHRI P.K.KARTHA, VICE CHAIRMAN(J)

&

HON'BLE SHRI S.P.MUKERJI, VICE CHAIRMAN(A)

ORIGINAL APPLICATION NO.233/89

1. N.S.Anilkumar
2. M.Vikraman Nair
3. G.Janardhanan Nair - Applicants

Vs

1. Union of India rep. by Asst.
Director General (PA/Admn)
Ministry of Communication,
Department of Posts,
Postal Accounts Wing,
New Delhi.
2. The Deputy Director,
Office of the Dy. Director
of A/cs (P), Kerala Circle,
Trivandrum.
3. The Post Master General,
Kerala Circle,
Trivandrum-33. - Respondents

Smt Daya K.Panicker - Counsel of the
applicants

O_R_D_E_R

(SHRI ~~SP~~ MUKERJI, VICE CHAIRMAN)

The relief claimed in this application is against the impugned order dated 27.1.1989 in accordance with which the quota for promotion of Lower Division Clerks on the basis of Departmental Qualifying Examination for promotion as Junior Accountant was reduced from 50% as per the Recruitment Rules notified on 25.5.1985 at Annexure-A to 35%. It is also contended by the learned counsel of the applicants that the

qualifying service of L.D.C. for such promotion against the 15% seniority-cum-fitness quota has also been reduced from 20 years to 5 years by the impugned notification. It has been argued that by such amendment, the prospect^S~~es~~ of promotion of the L.D.Cs through Departmental Examination have been reduced and that in the seniority quota the applicants have to face a wider competition.

2. We have heard the arguments of the learned counsel of the applicant and gone through the documents. It is an established law that the government are fully within their rights to amend the Recruitment Rules in public interest and that also with retrospective effect so long as vested rights are not assailed and the amendment is reasonable and not actuated by collateral considerations. It is also an established law that though a right to be considered for promotion is a condition of service, mere chances of promotion cannot be regarded as a condition of service. It has been held by the Supreme Court in State of Mysore Vs G.N.Purohit 1967 SLR SC 753 that a rule or administrative instructions cannot be challenged ^{on}~~under~~ the ground that chances of promotion of the petitioner have been reduced. Similar views have been expressed by the Supreme Court in Ramachandra Shanker Vs State of Maharashtra, AIR 1974 SC 259. Thus the applicants, who have not so far been promoted, cannot ~~be~~ challenged the reduction of Departmental Examination quota from 50% to 35% on the ground of their prospect^S~~es~~ having been adversely affected. So far as reducing the qualifying service from 20 years to 5 years in the seniority-cum-fitness quota is concerned, even the plea of reducing the prospect^S~~es~~ of promotion cannot be taken ~~as per to this provision~~, as by this amendment, the prospect^S~~es~~ of promotion have been

thrown open to a wider ^{corpus} ~~purpose~~ of Lower Division Clerks.

We do not see any arbitrariness , irrationality or

collateral ground in the amendment, Merely because the

applicants have passed the qualifying examination ^{They cannot} ~~could not~~
^{derive or claim any} ~~bestow on them~~ of vested right for promotion. _{A A}

3. In the circumstances, we see no merit in the application and reject the same under Section 19(3) of the Administrative Tribunals Act without any order as to costs.

S.P. 19.6.89
(S.P.MUKERJI)
VICE CHAIRMAN

Amud
19/6/89
(P.K.KARTHA)
VICE CHAIRMAN

19-6-1989

trs

cell 9

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

DATED THURSDAY THE TWENTY FIRST DAY OF SEPTEMBER
NINETEEN EIGHTY NINE.

C O R A M

HON' BLE SHRI P.K KARTHA, VICE CHAIRMAN(J)

&

HON' BLE SHRI S.P MUKERJI, VICE CHAIRMAN(A)

REVIEW APPLICATION NO.37 OF 1989
(in O.A No.233 of 1989)

1. N.S Anilkumar
2. M.Vikkraman Nair
3. G.Janardhanan Nair .. Review Applicant.

v.

1. Union of India rep by Asstt. Director General,
(PA/Admn), Ministry of Communication,
Department of Posts, New Delhi.
 2. The Deputy Director,
Office of the Dy. Director of A/cs(P),
Kerala Circle, Trivandrum.
 3. The Postmaster General,
Kerala Circle,
Trivandrum. .. Respondents
- Smt. Daya K. Panicker .. Counsel for the
Review Applicant.

O R D E R


Shri S.P Mukerji, Vice-Chairman

In this Review Application, the applicant has sought reconsideration of our order dated 19.6.1989 in which the application was dismissed at the admission stage on the basis of various rulings of the Supreme Court that the Government are fully within their rights to amend the Recruitment Rules in public interest and with retrospective effect so long as vested rights are not violated. It was also indicated that mere chances of promotion are not conditions of service. In the Review Application the finding has been challenged by quoting some other rulings.

I am afraid that an order cannot be challenged on merits in a Review Application. If the applicant is of the view that the order passed by the Tribunal is wrong, he may go up in appeal. In the Review Application no error apparent on the face of the record has been pointed out in our order. No new fact which was not available to the applicant with due diligence has either been pointed out. The Review Applicant's plea that he had filed an amendment petition on 16.6.89 which was not taken into account before passing the order is also not very persuasive. That application, according to the registry, was filed late in the afternoon of 16.6.89 without any notice of motion to the respondents. When the Original Application was taken up on 19.6.89, the learned Counsel for the applicant did not mention anything about the filing of such an application. The judgment was delivered in the open Court in the presence of the learned Counsel on 19.6.89 itself. I have gone through that application and find nothing in that application which would warrant reconsideration of the aforesaid judgment. Accordingly I find no merit in the Review Application and would recommend its rejection. Hon'ble Shri P.K Kartha, Vice-Chairman may also see and if he agrees with me, the Review Application will be rejected by circulation. If, however, he feels that the parties should be heard, then notices will have to be issued to the parties for a hearing.

I agree that there is no merit in the Review application and the same is to be rejected.


(S.P. MUKERJI)
VICE-CHAIRMAN


(P.K. KARTHA) 14-7-89
Vice Chairman

SPM

Orders pronounced in open court on behalf of the Bench.

Sd/-
(S.P. Mukerji)
Vice Chairman
21.9.89