

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No.321/96

Wednesday, this the 11th day of December, 1996.

C O R A M

HON'BLE MR PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER
HON'BLE MR AM SIVADAS, JUDICIAL MEMBER

....

1. K Davy, Offset Machine Assistant,
Government of India Press,
Koratty, Thrissur District.
2. Benchamin Varghese,
Offset Machine Assistant,
Government of India Press,
Koratty, Thrissur District.
3. OA Balan, Offset Machine Assistant,
Government of India Press,
Koratty, Thrissur District.

....Applicants

By Advocate Shri CT Ravikumar.

VS

1. The Director of Printing,
Ministry of Urban Development,
Government of India, B-Wing,
Nirman Bhawan, New Delhi--110 011.
2. Union of India represented by
Secretary to Government,
Ministry of Urban Development,
Office of the Printing & Stationery,
New Delhi.
3. The Manager,
Government of India Press,
Koratty, Thrissur District.
4. PS Asokan, Offset Machine Attendant,
Government of India Press,
Koratty, Thrissur District.
5. B Sreedharan Nair,
Offset Machine Attendant,
Government of India Press,
Koratty, Thrissur District.
6. CK Vivekanandan,
Offset Machine Attendant,
Government of India Press,
Koratty, Thrissur District.

....Respondents

R.1-3 by Shri S Radhakrishnan, Addl Central Govt Standing Counsel.
R.4-6 by Advocate Shri Babu Karukapadath.

contd.

The application having been heard on 6th December, 1996, the Tribunal delivered the following on 11th December, 96:

O R D E R

PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

Applicants were promoted as Machine Assistants (Letter Press) in 1984 on an ad hoc basis and were later retrospectively regularised with effect from the date of ad hoc appointment. They were deputed for training on offset machines for six months on 6.11.89 and passed the trade test for the post of Offset Machine Assistant in August, 1990. They were promoted as Offset Machine Assistants in 1992 and 1993 on an ad hoc basis, though, according to applicants, they had been working as such ever since completion of the six months training and the posts of Machine Assistant (Letter Press), which they had been holding, had been abolished in August, 1989. Applicants contend that respondents 4, 5 and 6 joined as Offset Machine Attendants in 1983, they were trade tested along with the applicants in August, 1990 and were placed below applicants in the list A-1, which according to the applicants, is in the order of seniority. Respondents 4, 5 and 6 filed OA 1098/91 claiming promotion as Machine Assistants. During the pendency of OA 1098/91, certain persons were promoted as Machine Assistants and respondents 4, 5 and 6 and one other filed OA 925/93 claiming that those vacancies should have been filled by promoting the applicants in OA 925/93 (respondents 4, 5 and 6 herein are applicants 1, 2 and 3 in that OA). Applicants herein were not parties in OA 925/93 or OA 1098/91. The Tribunal by order A6 found that the vacancies arose in the Photo Litho Wing, quashed the promotion orders dated 1.12.92 and directed consideration of the claims of the applicants in OA 925/93 for promotion. Respondents 1, 2 and 3 thereupon issued A2 orders dated

contd.

4.11.94 promoting applicants 1, 2 and 3 in OA 925/93 as Offset Machine Assistant with effect from 30.8.90, 30.8.90 and 28.6.91 respectively, and as a consequence, reverting the applicants herein as Offset Machine Attendant with effect from 25.11.92. Applicants challenged A2 in OA 1664/94. The Tribunal by order A3 directed the Director of Printing (first respondent herein) to consider the issue afresh and pass orders. Orders A5 dated 13.2.96 were passed as a consequence, regularising the promotion granted to respondents 4, 5 and 6 with effect from 30.8.90, 30.8.90 and 28.6.91 respectively, cancelling the transfer/promotions of the applicants and transferring them to the posts of Offset Machine Attendant for want of vacancies either in the grade of Offset Machineman or Offset Machine Assistants with effect from 31.8.90. Applicants challenge A5, contending that it is really a reversion of the applicants and not a transfer as stated and pray that A5 be quashed, that they be declared entitled to be promoted as Offset Machine Assistants earlier than respondents 4, 5 and 6 and that they be regularised with effect from 31.8.90 or in the alternative, from 25.11.92. Applicants contend that respondents 4, 5 and 6 become eligible for promotion even under the Recruitment Rules prior to their amendment in 1990 only on their passing the trade test, which was in August, 1990, and that the Tribunal had upheld this view as seen from para 6 of A6 in OA 925/93. By the time respondents 4, 5 and 6 passed the trade test, the Recruitment Rules had been amended on 17.3.90, according to which, the posts of Offset Machine Assistant in the Letter Press under modernisation shall be filled up 100% by transfer of Machine Assistants (Letter Press) with three years service in the grade who have qualified in a trade test after successfully undergoing a six months' training course in Offset Printing Technology. Applicants contend that in view of this amendment, respondents 4, 5 and 6 can be promoted only if there are no qualified Machine Assistants (Letter

Press) available for transfer as Offset Machine Assistant. To put it briefly, the main contention of the applicants is that respondents 4, 5 and 6 cannot be promoted because (a) before the Recruitment Rules were amended in March, 1990, they were not eligible for promotion because they had not passed the trade test, which was an essential qualification, and (b) after the Recruitment Rules were amended, they were not eligible for promotion since they were not in the feeder category, all the posts of Offset Machine Assistant being reserved for being filled up by transfer of Machine Assistants (Letter Press) like the applicants. Applicants are qualified and eligible to be promoted under the amended Recruitment rules and so they are to be promoted in place of respondents 4, 5 and 6 who are not eligible for promotion. Consequently, their reversion is bad and is liable to be quashed.

2. Respondents 1 to 3 have filed a reply statement contending that the impugned order A5 had been passed after a comprehensive review of the issues in pursuance of the direction of the Tribunal in OA 1664/94, keeping in view the orders in CPC 30/93 in OA 983/91 and CPC 46/93 in OA 991/91. They submit that the Government of India Press, Koratty, was a Letter Press till 1983 and during 1983, a Photo Litho Wing with Offset Technology was introduced therein. In 1986, it was decided to modernise the Press by replacing the Letter Press Technology with Offset Technology. To avoid consequential retrenchment of surplus personnel, the category of Machine Assistant (Letter Press) was abolished and posts of Offset Machine Assistants were created instead, which would be filled by transfer of the erstwhile Machine Assistants (Letter Press), by an amendment to the Recruitment Rules in 1990. Respondents 1, 2 and 3 had initially clubbed the existing vacancies of Offset Machine Assistants in the Photo

contd.

Litho Wing with the newly created posts of Offset Machine Assistants in replacement of the abolished posts of Machine Assistants (Letter Press) and filled all the vacancies by transfer of Machine Assistants (Letter Press). This resulted in respondents 4, 5 and 6, who were in the feeder category for the post of Offset Machine Assistant in the Photo Litho Wing being denied promotion. They approached the Tribunal in OA 925/93 and in implementing the direction of the Tribunal in that OA, the case of respondents 4, 5 and 6 (applicants in OA 925/93) was reviewed and it was found that respondents 4 and 5 were entitled to promotion against two promotion quota vacancies in the Photo Litho Wing prior to the abolition of the Letter Press Wing and respondent 6 was entitled for promotion against one promotion quota vacancy of the two vacancies of Offset Machine Assistants in the Photo Litho Wing. They were accordingly promoted. The Photo Litho Wing and the Letter Press Wing have separate seniority lists R2 and R3 and have their own individual channels of promotion. The list A-1 on which applicants rely to show they are senior to respondents 4, 5 and 6 is not a seniority list, but only a list of persons who have qualified in the trade test in 1990. Applicants and respondents 4, 5 and 6 are on separate seniority lists and there is no inter se seniority as between applicants and respondents 4, 5 and 6.

3. Respondents 1, 2 and 3 further submit that on abolition of the posts of Machine Assistants (Letter Press) and creation of Offset Machine Assistants in their place, there were 22 Machine Assistants (Letter Press) who had to be accommodated in the Offset Machine Assistant posts. Seven posts of Offset Machine Assistants had been sanctioned for modernisation and seven senior-most Machine Assistants (Letter

contd.

Press) were appointed to those posts. The next seven were appointed as Offset Machine Assistants against seven vacant posts of Offset Machinemen in the lower grade under GFR 77. One vacancy of Offset Machineman in the Photo Litho Wing occurred on 28.6.91 and this was earmarked for the 50% quota to be filled up by transfer failing which by direct recruitment and, therefore, the fifteenth senior Machine Assistant (Letter Press) was transferred and posted against that vacancy. One retirement vacancy of Offset Machineman arose in 3.4.93 and one more Machine Assistant (Letter Press), the sixteenth senior, was transferred and posted to that vacancy as Offset Machine Assistant under GFR 77. The remaining Machine Assistants (Letter Press), which includes the applicants, could not be transferred and posted as Offset Machine Assistants as there were no more vacancies of either Offset Machine Assistants or Offset Machineman, and being the junior-most, applicants had to be transferred as Offset Machine Attendants. The posts in the Photo Litho Wing under the Augmentation Scheme which existed side by side with the Letter Press Wing are to be treated as separate and distinct from the posts created in pursuance of the abolition of the Letter Press Wing and its replacement by Offset Technology under the Modernisation Scheme. The Tribunal had specifically held in OA 925/93 that respondents 4, 5 and 6 were entitled to promotion with retrospective effect and though the applicants were not parties in OA 925/93, their retention was not possible since they were junior-most. Modernisation of the Letter Press was an addition to the Photo Litho Wing and was not applicable to posts already existing in the Photo Litho Wing. Respondents 1, 2 and 3, therefore, submit that the impugned order has been passed after a thorough consideration of all issues.

contd.

4. Learned counsel for respondents 4, 5 and 6 supported the stand taken by respondents 1, 2 and 3. He argued elaborately and emphasised that the right of persons working in the Photo Litho Wing for promotion in their own Wing cannot be taken away by the modernisation programme of the Letter Press. Any steps to avoid retrenchment of persons working in the Letter Press by creation of new posts in the Offset Technology cannot be at the expense of persons working in the Photo Litho Wing. The Modernisation Wing and the Photo Litho Wing are distinct, each being shown separately in the Recruitment Rules. The learned counsel emphasised that respondents 4, 5 and 6 cannot be denied promotion because the trade test was delayed till 1990, since they had already acquired eligibility for promotion in 1986 and the trade test was held only in 1990, delayed through no fault on their part. The Tribunal in OA 925/93 had accordingly found them eligible for promotion in 1986, subject to qualifying in the trade test, which they did in 1990, and their promotion against vacancies which arose in their Wing and which were not vacancies created as a result of modernisation to absorb surplus Letter Press personnel, were rightly filled by promoting respondents 4, 5 and 6, who were in the feeder cadre for such vacancies.

✓ 5. The Recruitment Rules as it stood after amendment in March, 1990 shows that the post of Machine Assistant (Offset) was redesignated as Offset Machine Assistant. Column 11 shows two sets of methods of recruitment: (1) for Photo Litho Presses, 50% by promotion failing which by deputation and 50% by transfer, failing which by direct recruitment; and (2) for Letter Press under modernisation, 100% by transfer. Column 12 shows the feeder categories as follows:-

(1) Promotion: Attendant with three years service in Offset Machine Room subject to qualifying at a trade test;

(2) Deputation: Machine Assistant (Offset) of other Government of India Presses failing which Attendant with three years service in Offset Machine Room of other Government of India Presses subject to qualifying in a trade test. Period of deputation/contract including the period of deputation/contract in another ex-cadre post held immediately preceding this appointment in the same or some other Organisation/Department of the Central Government shall ordinarily not exceed three years.

(3) Transfer: Machine Assistant (Letter Press) with three years service in the grade who have successfully undergone a course of training for a period of six months in offset printing technology and have qualified in a trade test.

6. It is clear that till 1990, promotions in Letter Press Wing and Photo Litho Wing were independent of each other and only in 1990 was a channel provided for crossing over from Letter Press to Offset by transfer. This was necessitated by the abolition of the Letter Press and its conversion to Offset and was provided to absorb Letter Press personnel in Offset. The Photo Litho Wing is in existence from 1983 and till 1990, vacancies in the Photo Litho Wing could not be filled up from Letter Press personnel. R2 and R3 show there are separate seniority lists for the Photo Litho Wing and the Letter Press Wing. Nothing has been produced before us to show that the categories of Letter Press personnel and Photo Litho personnel have been merged into one category, nor have any common seniority lists been produced. Had there been a merger, there is no need to show two sets of methods of recruitments in Column 11 of the Recruitment Rules. If there was a merger, there need be only promotion/deputation and

contd.

direct recruitment and there is no need to provide for a transfer from Letter Press to Offset. Learned counsel for applicants tried to establish that the first set of methods of recruitment shown in Column 11 of promotion/deputation and transfer/direct recruitment is meant to apply only to Presses which are wholly Photo Litho, while the second set of methods, 100% by transfer alone, applies to Presses like the one at Koratty which have or had Letter Presses which are under modernisation. We find it difficult to accept this argument, because in that case it would not be necessary to provide for transfer/direct recruitment in the first set of methods of recruitment. If the first set of methods in Column 11 of the Recruitment Rules is to exclusively apply to Presses which were exclusively Photo Litho Press, there is no need to show a method of transfer of Machine Assistant (Letter Press) under that category. We, therefore, conclude that the Column 11 applies to the Press as a whole, whether it is purely Photo Litho, or whether it is Photo Litho and Letter Press under Modernisation. If that were so, then the method of 50% by promotion is available to fill the vacancies in the Photo Litho Wing and the method 100% by transfer is available to fill the vacancies in the Letter Press under modernisation. One method does not exclude the other and each operates in the area referred to in the heading shown against that method. It, therefore, follows that the contention of applicants that the first method can be operated and respondents 4, 5 and 6 can be promoted under the first method, only if there are no qualified Machine Assistants (Letter Press) available for transfer as Offset Machine Assistant cannot be upheld. In fact, such a position would lead to a situation where an Offset Machine Assistant's vacancy in the Press at Koratty cannot be filled up at all if there are no qualified Machine Assistants

contd.

(Letter Press) available, whereas applicants contend that respondents 4, 5 and 6 "could aspire for promotion" in such a contingency. This is a self-contradiction.

7. Vacancies of Offset Machine Assistant, therefore, have to be filled in accordance with the first method shown in Column 11 if the vacancies arise in the Photo Litho Wing and transfers from Letter Press have to be made if the vacancies arise in the Letter Press under Modernisation. It is seen that two vacancies of Offset Machine Assistant arose in the Photo Litho Wing before modernisation of the Letter Press and they are available to be filled only by promotion and not by transfer. Applicants who can fill those vacancies only by transfer can, therefore, have no claim to those vacancies. The contention of the applicants that after the Recruitment Rules were amended in 1990, respondents 4, 5 and 6 are not in the feeder category for those vacancies in the Photo Litho Wing is only to be rejected. The amendment in 1990 has only provided an additional channel of transfer from Letter Press to Offset and has not abolished the existing channels within the Photo Litho Wing.

8. The third vacancy of Offset Machine Assistant also arose in the Photo Litho Wing and applicants can have no claim to that vacancy. They cannot, therefore, claim for appointment by transfer and since there are no unfilled vacancies at the relevant time in the Letter Press under Modernisation which they can claim by transfer, their transfer as Offset Machine Attendant on modernisation cannot be faulted.

9. There is a contention by the applicants that respondents 4, 5 and 6 were not eligible for promotion by

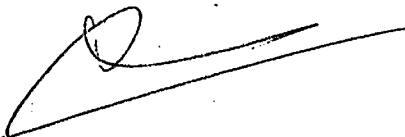
contd.

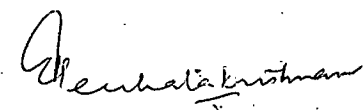
reason of not passing the trade test before the Recruitment Rules were amended. In view of our finding that the amendment of the Recruitment Rules has only introduced an additional channel of transfer from Letter Press to Offset, but has not taken away any existing channel of promotion within the Photo Litho Wing, this contention loses much of its force. In 1990, respondents 4, 5 and 6 passed the trade test and were fully qualified for promotion under the Recruitment Rules both as they stood before amendment and after they were amended. We notice from A5 that they were promoted only on 30.8.90 and 28.6.91, after they had passed the trade test. We see no reason to interfere with their promotion.

10. To sum up, we hold that respondents 4, 5 and 6 were rightly promoted after they became eligible for promotion against vacancies for which they were in the feeder category in the Recruitment Rules as amended in 1990 and that applicants have no claim to those vacancies which arose in the Photo Litho Wing and so, could not be filled by transfer from Letter Press. In that view, the impugned orders A5 have been correctly passed as far as the applicants and respondents 4, 5 and 6 herein are concerned.

11. The application, therefore, cannot be allowed and is dismissed without costs.

Dated the 11th December, 1996.


AM SIVADAS
JUDICIAL MEMBER


PV VENKATAKRISHNAN
ADMINISTRATIVE MEMBER

LIST OF ANNEXURES

1. Annexure A1: A true copy of Circular No.67(F.No.16011/46/E1/84) dated 22.8.90 of the Manager, Government of India, Press, Koratty, the 3rd respondent.
2. Annexure A2: A true copy of Office Order No.114(F.No.16011/43/94/E1) dated 4.11.1994 of the Personnel Manager, Government of India Press, Koratty.
3. Annexure A3: A true copy of the Order of the Hon'ble Central Administrative Tribunal, Ernakulam Bench in O.A. 1664/94 and connected cases dated 29.5.1995.
4. ✓ Annexure A5: A true copy of Office Order No.168 (F.No.16011/43/95/E1) dated 13.2.1996 of the Manager, Government of India Press, Koratty, the 3rd respondent.
5. Annexure A6: A true copy of the Order dt.13.6.1994 of the Hon'ble Tribunal in O.A. No.925/93.
6. Annexure R2: Seniority list as on 31.12.1989 of Offset Machine Attendants (Copy) issued by 3rd respondent.
7. Annexure R-3: Copy of seniority list of the Letter Press Machine Assistants and Attendants as on 31.12.1989, issued by 3rd Respondent.

.....