

**CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH
LUCKNOW**

M.P. No.64/2005 in Dy.No. 69 OF 2005

THIS, THE 9th Day OF December, 2005.

HON'BLE SHRI S.P. ARYA MEMBER (A)

HON'BLE SHRI K.B.S. RAJAN MEMBER (J)

1. All India Narcotics Group 'D' employees Association Prantiya Shakha, Lucknow through its Prantiya Adhyaksha Ram Pyar aged about 55 years son of Sri Nour resident of Village -Pipra Bhanumati, P.O.Rmpur Bujurug (Salempur), Distt. Deoria, presently posted as Sepoy at Deputy Narcotics Commissioner Office- B-40, Mandir Marg, Mahanagar, Lucknow.

2. Ram Samujh Pd. Aged about 52 years son of late Sri Ram Awadh r/o Village P.O. Israuli P.O. Sikasiganj, Dist. Gorakhpur.

Applicant.

By Advocate: Sri C.B. Verma

VERSUS

1. Union of India through the Secretary, Govt. of India, Ministry of Finance, Department of Revenue, New Dlehi .
2. Narcotics Commissioner, Govt. of India, 19- Mall Road, Murar Gwalior -6 (M.P.).
3. Deputy Narcotics Commissioner, B-40,Mandir Marg, Mahanagar, Lucknow.

Respondents.

By Advocate: Sri Deepak Shukla for Sri Prashant Kumar

ORDER

BY HON'BLE SHRI S.P. ARYA MEMBER(A)

The applicant by this O.A. seeks for quashing the notification dated 9.7.88 amending the Narcotics Department (Group 'C' and Group 'D' posts) Recruitment Rules, 1979 (Annexure No. 2) and for issuance of direction to the respondents to promote the members of the Applicant's Association on the post of Sub Inspector , Narcotics without subjecting them to any written test and without any barrier of 45 years of age bar and not to deprive them from getting the promotional benefit on the basis that they have not passed the High School Examination along with all consequential benefits.

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2. We have heard the learned counsel for the parties and perused the pleadings on record.

3. The Original Application has been opposed by the counsel for respondents on the grounds that the O.A. is time barred. Since the Recruitment Rules have been challenged in this Original Application, we are of the view that there is no bar of limitation in challenging the Recruitment Rules.

4. It was submitted by the counsel for the applicant that the Recruitment Rules of 1988 would deprive the members of the Applicant's Association from promotion to the post of Sub inspector.

5. It is stated by the respondents in their counter reply that by notification of 10.10.2001, the revised recruitment rules have come into existence and the condition of departmental examination has been dispensed with thereby. The departmental examination would, therefore, not be required for promotion to the post of Sub Inspector. It has further been stated by the counsel for respondents in their counter reply that all those persons who were eligible under the ACP scheme have been accorded ACP. Several persons have been given promotion in pursuance of Rules of 1988. Now the settled position cannot be unsettled. This would amount to great difficulty to the Department. This would be against the ratio laid down by the Hon'ble Supreme Court.

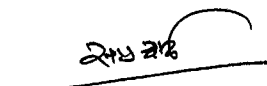
6. Upon hearing the counsel for the parties, we find that the rules prescribed the condition of recruitment. Question relating to the constitution, pattern, nomenclature of posts, cadres, categories, their creation/abolition, prescription of qualifications and other conditions of service including avenues of promotions and criteria to be fulfilled

for such promotions pertain to the field of policy and it is within the exclusive discretion and jurisdiction of the State, subject to the limitation or restrictions envisaged in the Constitution of India and it is not for the Tribunal to direct the Govt. to have a particular method of recruitment or eligibility criteria or avenues of promotion or impose itself by substituting its views for that of the State. It is competent to the State to change the rules relating to a service and alter or amend and vary by addition/subtraction the qualification, eligibility criteria and other conditions of service including avenues of promotion. This view has got the sanction of Hon'ble Supreme Court as held in P.U. Joshi and others Vs. Accountant General 2003 Supreme Court Cases (L&S) 191. Relying on the law laid down by the Hon'ble Supreme Court, we find that amendment to the rules is the exclusive power of the State. This being a policy decision, cannot be interfered with by this Tribunal.

7. Having regard to the above, the O.A. fails. It is dismissed without any order as to costs.



K.B.S.Rajan)
Member (J)



(S.P.Arya)
Member(A)

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