

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY

Original Application No.443 of 1986

1. Shri Ramdas Mahadu Handore,
Upper Division Clerk,
India Security Press,
Nasik Road.
2. General Manager,
India Security Press & Currency
Notes Press Staff Union,
Nasik Road .. Applicants

Vs

1. Joint Secretary,
Govt. of India,
Ministry of Finance,
Department of Economic Affairs,
New Delhi.
2. General Manager,
India Security Press,
Nasik Road.
3. General Manager,
CNP, Nasik Road,
(Currency Notes Press)
Dist. Nasik.
4. General Secretary,
ISP Mazdoor Sangh,
Nasik Road.
5. Regional Director,
Staff Selection Commission,
Bombay. .. Respondents

Coram: Hon'ble Member (A) S.P. Mukerji

Hon'ble Member (J) M.B. Mujumdar

Appearances

- 1) Mrs. S.H. Jadhav, Advocate for the applicants
- 2) Mr. P.M. Pradhan, Advocate for the Respondents.

ORAL JUDGEMENT (Per S.P. Mukerji, Member) 24.12.1986.

We have heard the learned Counsel of both for
the Applicants and Respondents on the question of
admission and gone through the documents carefully.

2. The only point under challenge is whether
the Respondents 1, 2, 3 & 5 can legitimately amend the
Recruitment Rules for appointment to the post of Asstt.

Inspector Control. The brief facts of the case are that in accordance with the recruitment rules, it was provided that 60% of the posts of Assistant Inspector Control would be filled up by promotion from the lower feeder category of U.D.C's with minimum 5 years of regular service and 40% filled by promotion of industrial workers having certain minimum qualifications and service experience. The rules were amended by a notification dated 31.5.1982 providing that the mode of recruitment would be ~~by~~ "by promotion failing which by direct recruitment." The amendment prescribed some age and educational qualification for direct recruits. The direct recruitment has so far not been resorted to.

3. It appears that with induction of sophisticated equipments, the number of posts of Assistant Inspector Control had to be increased and it was felt that sufficient number of suitable and eligible candidates from the feeder categories might not be available. To meet this difficulty, the Respondents suggested to the staff Union that 25% direct recruitment quota be provided but the Union having opposed it ^{the} ~~that~~ petitioners are afraid that the Respondents would now resort to direct recruitment on the basis of the 1982 amendment. The petitioners' grievance is that the 1982 amendment by diluting the chances of promotion is void in the eyes of law and should not have been introduced without their consent.

4. It has been held by the Supreme Court in ^a number of cases that mere chances of promotion are not the condition of service and cannot be protected. Though

being considered for promotion is a condition of service, the chances of promotion cannot be regarded as such. Accordingly, it has been held by the Supreme Court that a rule or administrative instruction cannot be challenged on the ground that chances of promotion of the petitioner have been reduced thereby. In this connection, the cases of State of Mysore v. G.B. Purohit 1967 SLR(SC)753 and R.S. Deodhar v State of Maharashtra, AIR 1974 SC 259 would be particularly relevant.

5. We are impressed by the ^{to argument of the} learned Counsel for the Respondents that strictly speaking even the chances of promotion of the petitioner have not been diluted by the amendment which specifically states that the direct recruitment will be resorted to only ~~when~~ ^{after} all the eligible candidates from the feeder cadres have been considered and selected or rejected and still there are some vacancies left in the cadre of A.I.C. No specific direct recruitment quota had been introduced.

6. We cannot accept the contention of the petitioners that all the vacancies must be filled up by promotion irrespective of whether the promotees are ineligible or found unsuitable. This will be grossly against public interest and it is nobody's case that ^{the} public interest should be sacrificed at the altar of the interest of a particular category of civil servants. It has been held further in the case of N. Srinath v. State of Mysore, 1973 Lab. IC (Mysore) 615 that ^{the} right to be considered for promotion arises only when there is a vacancy and ^{the} public servant is senior enough to be considered for it. This implies that ^{the} criteria of seniority or eligibility must be satisfied before the petitioner can be considered for selection. The Supreme Court also has held in Gurdial

Singh Fijji Vs State of Punjab, AIR 1981 SC(2015)
that no right can be claimed for actual promotion
when one is found unfit after consideration by the
competent authority.

7. The Govt. in the public interest has the
sovereign right to change the recruitment rules and
the petitioner cannot shackle that right on the mere
plea of possible dilution of their chances of promotion.
We are convinced that the amendment of 1982 is more than
fair to the petitioners and is ^{also} strictly in the public
interest of maintaining the efficiency of public work
in the face of lack of adequate suitable and qualified
staff in the feeder cadres.

8. In the facts and circumstances discussed
above, we find that there is no merit in the application
and reject the same under Section 19(3) of the Adminis-
trative Tribunals Act, 1985. The interim order passed
on 10.12.86 stands vacated.

S.P. Mukerji 24/11/86
(S.P. MUKERJI)
MEMBER(A)

M.B. Muzumdar
(M.B. MUJUMDAR)
MEMBER(J)