

CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH.

Original Application No.1046/1999.

Tuesday, this the 17th day of July, 2001.

Shri Justice Birendra Dikshit, Vice-Chairman,
Shri M.P.Singh, Member (A).

D.B.Solanke,
Admn. Assistant,
India Meteorological Department,
Shivajinagar,
Pune - 5.
(By Advocate Shri S.P.Saxena) ...Applicant.

v.

1. The Union of India
Through the Secretary,
Ministry of Science & Technology,
New Delhi - 110 003.
2. The Director General of Meteorology,
Lodhi Road,
New Delhi - 110 003.
3. The Dy. Director General of Meteorology,
India Meteorological Department,
Shivajinagar,
Pune - 411 005. ...Respondent.

: O R D E R (ORAL) :

Shri M.P.Singh, Member (A),

The applicant has filed this OA under section 19 of the Administrative Tribunals Act, 1985 challenging the order dt. 17.6.1999 issued by Respondent No.3.

2. The facts of the case, as stated by applicant are that, he was appointed to the post of Observer w.e.f. 20.11.1970. Thereafter, he was promoted to the post of Upper Division Clerk (for short, UDC) w.e.f. 25.5.1976. According to him, the scale of pay of UDC and Senior Observer were the same. Therefore, he had accepted promotion to the post of UDC in place of Senior Observer. The applicant continued in the post of UDC waiting for an opportunity of further promotion to the post of next higher

grade of Scientific Assistant. It is stated by him, if UDCs do not pass the prescribed examination, they cannot be promoted to the post of Scientific Assistant (Technical) and since they cannot be promoted to the post of Scientific Assistant, they would be reconsidered for the post of Administrative Assistant in clerical cadre. In 1986, a separate cadre for Administrative Posts was created. However, the applicant on subsequent promotion to the post of Administrative Assistant w.e.f. 16.11.1987 was continued in the said grade as no option was invited either to continue in the same cadre or to opt for Scientific cadre. It is alleged by him that the Respondents have allowed a number of persons including some of his juniors to change their cadre from Administrative Grade to Scientific Grade and vice-versa. However, in the case of the applicant, he has not been allowed by the Respondents to opt for the grade of Scientific Assistant. Aggrieved by this, he has filed this OA seeking the relief and praying for directions to consider him for promotion to the post of Scientific Assistant and to the next higher post of Professional Assistant by holding a Review DPC and if found fit, to promote him to the above post from the date his junior like Mrs. R.S.Jadhav (Mrs. Rajavanshi) of the technical cadre are promoted with all consequential benefits.

3. The Respondents in their reply have stated that the applicant could pass the Elementary training programme of four months duration only at the fifth attempt and that too with grace marks in May, 1977 after promotion as UDC in May, 1976. The applicant failed in the said Elementary training programme four times in September, 1974, May, 1975, September, 1975 and May, 1976. It is



because of this reason, the applicant could not have been promoted as Senior Observer until he passed the said examination within five years of joining his service. Secondly, since he could not qualify within five years, he was promoted as UDC in May, 1976. Thirdly, even as UDC he was required to pass the said examination. It is stated by the Respondents that the applicant was not in the zone for promotion prior to 15th January, 1983 as per Recruitment Rules. They have also stated that the Government of India letter dt. 14.11.1980 clearly stipulates that administrative staff will get promotion to administrative post and if the applicant wanted to go to the technical post, he can be transferred to the cadre of Senior Observer, but his seniority will be reckoned in the new post from the date of his transfer. According to the Respondents, the applicant never lost his seniority and all those promoted earlier were senior to him.

4. Heard the Learned Counsel for the Applicant. None is present for Respondents. We, therefore, proceed to decide the case under section 16 of the Central Administrative Tribunal (Procedure) Rules, 1987.

5. During the course of the argument, the Counsel for the applicant stated that Respondents have allowed other persons who opted from Administrative cadre to that of Scientific cadre and vice-versa, but in the case of the applicant, he has not been allowed to exercise such option to come over to the Scientific cadre after new Rules have been framed in 1986 by bifurcating administrative cadre and scientific cadre. He specifically mentioned the name of one Mrs.R.S.Jadhav, stating that, according to him the applicant was appointed as Observer in the year 1970,

whereas, Mrs. R.S.Jadhav was appointed as Observer in 1971. He also submitted that Mrs.R.S.Jadhav has been appointed as Senior Observer in 1977, whereas, the applicant has been appointed as UDC which is equivalent to the post of Senior Observer in May, 1976. Since the Respondents have allowed other persons to change their cadre from administrative side to scientific side and vice-versa, they have discriminated the applicant by not allowing him to change his cadre.

6. After hearing the Learned Counsel for the applicant and perusing the record, we find that the allegations made by the Learned Counsel for the applicant in respect of other persons except Mrs. R.S.Jadhav are vague and general in nature. As per the statement of the learned counsel Mrs. Jadhav was appointed as Senior Observer on 1.7.1977, whereas, the applicant till that date had not passed the test for the post of Senior Observer and therefore, could not have been appointed to the post as required under the Recruitment Rules. Therefore, the applicant cannot have any grievance on this ground that his junior Mrs. Jadhav has been appointed to the post of Senior Observer earlier. Since she has passed the test for the post of Sr. Observer earlier she has been promoted to the post and has become senior to the applicant so far as the posts in Scientific cadre are concerned. As regards the grant of option at the time of bifurcation of the cadre, the applicant himself has not given any option and has raised this question only after 15 years when he has found that the Scientific cadre has been given the higher scale of pay on the recommendation of 5th Pay Commission. On this ground also, the request of the applicant is barred by limitation. Moreover,



if he is to be transferred to the cadre of Sr. Observer, his seniority will be reckoned in the new post from the date of his transfer as stated by the Respondents. He, therefore, cannot be allowed to enjoy the benefit of both the cadres (Scientific & Administrative) as and when it suits him.

6. For the reasons stated above, the OA is devoid of any merit and is therefore dismissed. No orders as to costs.


(M.P.SINGH)
MEMBER(A)


(BIRENDRA DIKSHIT)
VICE-CHAIRMAN

B.