

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO. : 199/2000

Date of Decision : 24.10.2003.

C.A.Lakshminarayan & Anr. Applicant

Shri M.S.Ramamurthy Advocate for the
Applicant.

VERSUS

Union of India & Ors. Respondents

Shri R.R.Shetty Advocate for the
Respondents

CORAM :

The Hon'ble Shri S.Biswas, Member (A)

The Hon'ble Shri Muzaffar Husain Member (J)

- (i) To be referred to the reporter or not ?
- (ii) Whether it needs to be circulated to other
Benches of the Tribunal ?
- (iii) Library ✓

S. Biswas

(S.BISWAS)
MEMBER (A)

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CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH: :MUMBAI

ORIGINAL APPLICATION NO. 199/2000

THIS THE 24th DAY OF OCTOBER, 2003

CORAM: HON'BLE SHRI S. BISWAS. .. MEMBER (A)
HON'BLE SHRI MUZAFFAR HUSAIN. .. MEMBER (J)

C.A. Lakshminarayan,
presently working as
Stenographer Grade-I
in the office of Director of
Purchase and Stores, Vikram
Sarabhai Bhavan,
Anushaktinagar, Mumbai-400 094.

R. Ravindran Nair,
presently working as
Stenographer Grade-I
in the office of Director of
Purchase and Stores, Vikram
Sarabhai Bhavan,
Anushaktinagar, Mumbai-400 094.

.. Applicants

By Advocate Shri M.S. Ramamurthy

Versus

1. Union of India
through the Secretary,
Department of Atomic Energy,
Anushakti Bhavan, CSM Marg,
Apollo Bunder, Mumbai-400 001.
2. The Director, BARC,
Trombay, Mumbai-400 085.
3. The director, Directorate
of Purchase & Stores, Vikram
Sarabhai Bhavan, Anushaktinagar,
Mumbai-400 094. .. Respondents

By Advocate Shri R.R. Shetty.

O R D E R
Hon'ble Shri S. Biswas, Member (A)

In this application under Section 19 of the
Administrative Tribunals Act 1985 the applicants have
claimed for promotional opportunities and pay scale on
par with their colleagues in other units of the

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Department of Atomic Energy in Mumbai. They have also sought removal of discriminatory promotional avenues in different units of Department of Atomic Energy and thereby bringing parity. Alternatively, the applicants have also sought re-transfer to other units in which they have better promotional opportunities. Presently the applicants are working as Stenographer Grade-I in the office of Director of Purchase and Stores in Vikram Sarabhai Bhavan.

2. The brief and necessary facts of the case are that applicant No.1 joined Government service on 25.3.1968 as Steno Typist, which was redesignated as Junior Stenographer in the Purchase and Stores Directorate of Bhabha Atomic Research Centre (BARC for short). In 1973 this Division was converted into a Directorate vide order dated 10.10.1973. Consequently, applicant No.1 was transferred to this Directorate vide order dated 06.3.1974, lien was permitted to be retained till he was confirmed in the said directorate.

3. In 1974 he was promoted as Senior Stenographer by the directorate under Respondent No.3. In pursuance of IVth Pay Commission's recommendation, the post of Stenographer was (insitu) re-organised into (1) Stenographer Grade-I, (2) Stenographer Grade-II, and (3) Stenographer Grade-III. The post of Senior Stenographer held by the applicant was declared as equivalent to

S. O.3.

Stenographer Grade-II and he was promoted as Stenographer Grade-I in 1993 after putting in 19 years of service as Stenographer Grade-II.

4. Applicant No.2 on the other hand joined as Junior Stenographer in the Power Project Engineering Directorate on 01.02.1973 and when the Purchase and Stores Directorate of BARC was converted into a full fledged directorate on 10.10.1973 the applicant No.2 was transferred to this directorate in the same capacity vide order dated 13.12.1973. He was permitted to retain his lien in BARC till his confirmation. After taking the departmental exam, he was promoted as Senior Stenographer in March, 1981 and posted under respondents like applicant No.1. As usual his post was redesignated (vide IVth Pay Commission's Recommendations) as Stenographer Grade-II. He was also promoted in 1993 as Stenographer Grade-I. By then he had put in 12 years as Stenographer Grade-II.

5. The point of contention is that there is only two posts of Senior PA under Respondent No.3 i.e. Directorate of Purchase and Stores which are only occupied by the senior stenographers. As these incumbents are young, they see no prospects of promotion as Senior PA. before they retire. There is good ground of disparity among the constituents in as much as promotion in some constituent units are smooth and even

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juniors have got their promotion as Senior PA. Consequently, the applicants have challenged by this OA the disparity among the inter constituents in respective posts of Senior PA and their promotional prospects. Out of 12 such constituents, the promotional prospects for the applicants in Purchase and Stores directorate is very slow. Their representations since 1990 for removing this disparity have not yielded any positive response. Even though several other cadres were reviewed, their cadre has not been reviewed.

6. Till recently BARC had been conducting examination for promotion to Stenographer Grade-II in respect of all units for promotion to Stenographer Grade-I. Unit wise seniority on Grade-II basis should be adopted for Grade-I so that promotion to the Grade-I is made on the basis of where vacancy is available in the BARC.

7. In reply to this OA the respondent authority have stated that the applicants are not having lien to go back to BARC as they have been confirmed by promotion to higher scale as per the terms and condition given to them. It has been contended that directorate of purchase and stores is a separate constituent unit of the DAE having independent and separate seniority (as perused)for the employees upto Group-B, this is maintained unit wise. Even though a point was made

S. B.5.


after Grade-II common test is held but the promotions were made according to the seniority of the respective directorate as there are 12 units. It is pleaded that the promotions of stenographers are less according to their seniority. The applicants have got two promotions in this department according to their own seniority and therefore, they have no ground to grudge now that higher level posts in this unit has become fewer. It was held in the case of Govt. of Tamil Nadu & another Vs. S. Arumugham reported in (1998) SCC (L&S) 493 that persons performing different functions and having different avenues of promotion held, cannot be equated.

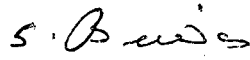
8. The applicants are claiming for repatriation to BARC on the ground that they are here for 26 years and have got 2-3 promotions. If they were to go back, such application should have been made long before their confirmation in the present constituent and now they cannot go back for searching better prospects in another unit. We have also looked into the clarification to the judgment given by Hyderabad Bench of this Tribunal. In this case, the ratio is that the applicants are complaining about stagnation and wanted to be promoted to a new channel, though they were from the grade of stenographer. In similar case (1997) SCC (L&S) 1186 decided on 10th March, 1997 the Hon'ble Supreme Court held that Administrative Tribunal was not competent to give directions for laying down policy or for creation

S. P.9.

of promotional avenues because these matters fall within policy making function of appropriate Government. Therefore, having found that there are no opportunity in the present unit, the applicants now wanted to go back to their parent unit, certainly cannot be permitted as they were happy when they got two promotions earlier in the present unit.

9. In the light of what is discussed above, we are of the considered view, that the applicants have no case and accordingly the OA is dismissed without any order as to costs.


(MUZAFFAR HUSAIN)
MEMBER (J)


(S. BISWAS)
MEMBER (A)

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