

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO. : 735/2001

Date of Decision : 21.2.2002

CSD Employees' Union & Ors. Applicant

Shri G.K.Masand Advocate for the
Applicant.

VERSUS

Union of India & Ors. Respondents

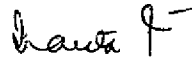
Shri R.R.Shetty for Advocate for the
Shri R.K.Shetty Respondents

CORAM :

The Hon'ble Shri Justice Ashok C.Agarwal, Chairman

The Hon'ble Smt.Shanta Shastry, Member (A)

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


(SMT. SHANTA SHASTRY)
MEMBER (A)

mrj.

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA.NO.735/2001

Thursday this the 21st day of February, 2002.

CORAM : Hon'ble Shri Justice Ashok C.Agarwal, Chairman

Hon'ble Smt.Shanta Shastry, Member (A)

1. Canteen Stores Department
Employees' Union through
its General Secretary,
Shri V.B.Mule, UDC,
C.S.D. Base Depot,
Sewri, Mumbai.

2. Ramakant T.Gosavi
3. K.K.Pappukutty
4. Smt.Mohini R.Karkera

Selection Grade Clerks,
C.S.D., HQ, Mumbai.

...Applicants

By Advocate Shri G.K.Masand

vs.

1. Union of India through
the Secretary,
Ministry of Defence,
New Delhi.
2. Quarter Master General,
Army Head Quarter, DHQ,
P.O. New Delhi.
3. Dy.Director General,
Canteen Services,
Board of Control,
Brassy Avenue, Church Road,
Room No.16, New Delhi.
4. General Manager, Canteen Store
Department, 'Adelphi',
M.K.Road, Mumbai.
5. Shri G.Nagarajan,
Steno Gr.I at present working
as Supdt., Secy Branch, H.Q.
CSD, 'Adelphi' Mumbai.

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6. Shri Mohan C.S., Steno Gr.I
at present working as Supdt.,
I.I.F., Branch, CSD H.Q.,
Mumbai.

7. Shri Pillai Vishwanathan,
Steno Gr-I, at present
working as Supdt., CSD H.Q.,
Adelphi, Mumbai.

...Respondents

By Advocates Shri R.R.Shetty
for Shri R.K.Shetty for
Respondents No. 1 to 4.
Shri D.V.Gangal for Interveners.

O R D E R (ORAL)

{Per : Smt.Shanta Shastry, Member (A)}

The applicants have approached this Tribunal against the impugned Eligibility Lists dated 1.2.2000 and 2.8.2001 and the order dated 16.6.2000 promoting Respondents No. 5 to 7, i.e. Stenographers Grade II to the post of Superintendent. They have also prayed for restraining the respondents from operating on the impugned Eligibility Lists and declaring the result of the DPC held on 23.8.2001 for selection to the post of Superintendent in so far as it relates to the consideration of Stenographers Grade II.

2. The learned counsel for the applicants submits that as per the Recruitment Rules of 10.9.1991 called the Canteen Stores Department Group 'C' (non-industrial and industrial) posts Recruitment Rules, 1991, Stenographers Gr.II are eligible for consideration for promotion to the post of Superintendent. These Recruitment Rules were being followed till recently and the applicants had no grievance. However, the Stenographers Gr.II

have now been provided an independent channel of promotion by creating 5 posts of Stenographers Gr.I vide Recruitment Rules dated 20.9.1999 (page 40). According to these Recruitment Rules, Stenographer Gr.II have been made eligible for promotion to Stenographer Gr.I. The contention of the learned counsel for the applicants is that when an independent channel of promotion has been provided to Stenographer Gr.II, there cannot be double channel of promotion for the same Grade. They should be confined to only to Stenographer Gr.I posts and they should not be considered for promotion to the post of Superintendent. The learned counsel submits that even the DOP&T has laid down that there cannot be double channel of promotion for the feeder grades and he has drawn our attention to letter dated 12.7.1999 from the Secretariat, Board of Control, Canteen Services addressed to the Head Office, Canteen Stores Department. In para 2 of this letter, it is clarified that as per the guidelines issued by DOP&T double channel of promotion for the feeder grades is not allowed. Hence, for the post of Superintendent, Stenographer Grade II as a feeder grade will not be allowed by DOP&T. Therefore, he has requested the ACO, HQs. to forward a draft of the Recruitment Rules of Superintendent making only the Selection Grade Clerks as feeder grade for the post. The learned counsel states that inspite of such a letter having been issued and the intention been made clear, the respondents have not taken any action to amend the Recruitment Rules of 10.9.1991 with the result Stenographers Gr.II are encroaching on the chances of Clerks even by getting reverted after being promoted to grade I Stenographers post. Thus, the chances of the applicants are reduced. This is unfair.

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3. The learned counsel for the respondents submits that although Stenographers Gr.II have been provided a fresh channel of promotion by the new Recruitment Rules dated 20.9.1999, so long as the original Recruitment Rules for the post of Superintendent are in force, the Stenographers Gr.II will be eligible for consideration for promotion to the post of Superintendent also. The applicants have not challenged the recruitment Rules of 10.9.1991. The Recruitment Rules have been framed in exercise of the powers conferred by the Proviso of Article 301 of the Constitution. Unless the Recruitment Rules are amended, the applicants' request cannot be acceded to. The learned counsel submits that a proposal has been initiated on 3.2.2000 to amend the Recruitment Rules of 10.9.1991. A proposal has been initiated at the level of the Board. The actual decision regarding the amendment will have to be taken by the Ministry of Defence.

4. We have heard the learned counsel for the applicants as well as respondents. We have also heard Shri D.V.Gangal, learned counsel for the Interveners who have been allowed to intervene in this matter.

5. The Government has laid down Recruitment Rules for filling up of various posts. So long as the Recruitment Rules are in force, one has to abide by them. We find that the Recruitment Rules of 10.9.1991 are still in force and they provide for the promotion of Stenographer Grade II to the post of Superintendent.

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Unless and until these Recruitment Rules are amended, they continue to enjoy this privilege even though another channel of promotion has now been provided to them from 1999 onwards. Apparently, the Board has suggested to amend the Recruitment Rules so as to do away with the category of Stenographer Grade II as the feeder category for promotion to the grade of Superintendent. However, there does not appear to be any final decision in this matter. Even the letter from the Board dated 12.7.1999 only requests to forward the draft Recruitment Rules making only the Selection Grade Clerks as eligible for the post of Superintendent. It shows that even the Board realised that the Recruitment Rules need to be amended before the Stenographers Gr.II can be deprived of the promotion as Superintendent.

6. In the facts and Circumstances of the case, in our considered view ends of justice will be duly met if the respondents are directed to take a conscious decision on whether to amend the Recruitment Rules of 10.9.1991 to delete the Stenographer Grade II as the feeder grade for promotion to the post of Superintendent or not. We, accordingly, direct the respondents to take a decision expeditiously in this matter within a period of three months. The OA. is disposed of in terms of the above directions. No costs.

Shanta S

(SMT. SHANTA SHASTRY)

MEMBER (A)

mrj.

Ashok C. Agarwal
 (ASHOK C. AGARWAL)
 CHAIRMAN

21/9/02
 to be placed
 to the respondent (s)
~~*21/9/02*~~

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