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CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 317/91

Transfer Application No:

DATE OF DECISION: 19.10.1994

Abdul Muttalib & Ors. Petitioner

Shri A.G.Abhyankar. Advocate for the Petitioners

Versus

Union of India & Ors. Respondent

Shri R.K.Shetty. Advocate for the Respondent(s)

CORAM :

The Hon'ble Shri Justice M.S.Deshpande, Vice-Chairman,

The Hon'ble Shri P.P.Srivastava, Member(A).

1. To be referred to the Reporter or not ? M.
2. Whether it needs to be circulated to other Benches of the Tribunal ? M.


(M.S.DESHPANDE)
VICE-CHAIRMAN

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH, BOMBAY.

Original Application No.317/91.

Abdul Muttalib & Ors.

.... Applicants.

V/s.

Union of India & Ors.

.... Respondents.

Coram: Hon'ble Shri Justice M.S.Deshpande, Vice-Chairman,
Hon'ble Shri P.P.Srivastava, Member(A).

Appearances:-

Applicants by Shri A.G.Abhyankar.
Respondents by Shri R.K.Shetty.

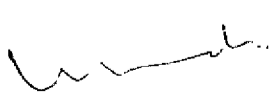
Oral Judgment :-

(Per Shri M.S.Deshpande, Vice-Chairman) Dt. 19.10.1994

By this application the applicants seek a direction to the Respondents to amend SRO No.221 dt. 14.8.1987 by keeping all the 100% Senior Scientific Assistant (SSA) posts available for being filled by promotion of Junior Scientific Assistants Gr.I (JSA Gr.I), that a separate quota of posts, not being posts of SSA may be made available and prescribed for the categories of Chief Glass Blowers, Artists-cum-Photographers and Commercial Artists and a direction not to resort to direct recruitment to the posts to be of SSAs as intended to be done in terms of the impugned D.O. Part-I order dt. 14.6.1990 unless it has been ensured properly that no fit candidate is available among the JSA Gr.I category.

2. Out of the 9 applicants, 4 belong to Armament Research & Development Establishment (A.R.D.E.), 4 to Explosives Research & Development Establishment (E.R.D.E.) and applicant No.9 is the Scientific Staff Association an Association which represents the above categories.

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3. According to the applicants the post of SSA is the highest post in the Non-Scientific Staff in the Defence Research and Development Organisation (DRDO). In the Ministry of Defence in respect of the posts belonging to what is referred to as Class.III posts earlier and is now referred to as Group 'C' posts, The post of JSA Gr.I was the only post prescribed as the feeder cadre for promotion of Scientific Staff as the SSA in terms of SRO No.213 dt. 22.6.1968 and under it the method of recruitment to the post was $\frac{1}{3}$ rd by direct recruitment and $\frac{2}{3}$ rd by departmental promotion of JSA Gr.I with three years service in that grade failing which by direct recruitment to this $\frac{2}{3}$ rd quota could also be resorted to. This SRO catered for substantial promotion opportunities afforded sure prospects for JSA staff and they were adversely affected by the SRO 221 dt. 14.8.1987 because by the impugned amendment 80% of the SSA posts would be filled in by promotion of JSA Gr.I with three years regular service in that grade and 20% of SSA vacancies would be filled in by promotion from the categories of Artist-cum-Photographer, Commercial Artist and Chief Glass Blower. In both these cases direct recruitment would be resorted to if no qualified departmental candidates were available. It is urged that ^{though} apparently this has increased the quota of JSA Gr.I from 65% to 80%, the 20% of the vacancies were snatched away from JSA category and given to ~~category~~ and ~~given to~~ a category which ^{was} ~~were~~ not categorised as scientific staff, but as technical staff, though under the previous SRO the JSA could freely compete for consideration in the $\frac{1}{3}$ rd % of direct recruitment to SSA vacancies provided they are otherwise qualified and that opportunity is lost by SRO 221 and it ~~has~~ prevented

healthy competition by promotion. On 31.5.1990 on the basis of ^{SRO} 221 applications were invited for direct recruitment for one of the posts. The applicants, therefore, by this application seek the aforesaid reliefs.

4. The contention on behalf of the Respondents was that promotional opportunities were significantly increased for the categories to which the applicants belong and it was a matter of policy which the Government was competent to determine as to how certain categories of posts should be filled up and what methodology should be adopted and what qualifications should be prescribed in doing so.

5. We have examined the relevant SROs. It is true that originally certain categories were not eligible for promotion under SRO 213 of 1968 because the recruitment was to be $\frac{1}{3}$ rd by direct recruitment and $\frac{2}{3}$ rd by departmental promotion failing which by direct recruitment and this $\frac{2}{3}$ rd quota became available for JSA Gr.I with 3 years service in that Grade. It is true that eligible candidates from JSA Gr.I could also compete for direct recruitment and the other categories which were included by SRO 22/87 did not find place in SRO 213/68. We have described ~~that~~ those categories would be above and need not repeat them at this stage. It is difficult to accept the contention that others who did not fall in to the original categories which could be considered for promotion in SRO 221/68 could not have been included by amendment of 1987. It was for the executive to determine upon such advise by ^{an} expert body or otherwise to determine to what category should be included as feeder cadre. It is difficult to accept

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the contention that Artist-cum-Photographers/Chief Glass Blowers/Commercial Artists with three years regular service in the grade would not fall in the category which did ^{the} work relating to scientific matters, just as the JSAs did. As long as the inclusion of the categories was not arbitrary and so far as removal from the work that they were required to do, that their entry into the cadre would be to the detriment of the entire service and consequently it would not be open to us to substitute our own ideas about what the feeder cadre should have been. We do not think that the categories which have been included by the SRO 22/87 could not have been legitimately placed in the feeder category in the posts of SSAs. No material has been placed before us to show that the category so included would have been entirely unsuitable for performing the duties which they would be called upon to perform as SSAs.

6. With regard to the advertisement dt. 14.6.1990 (Annexure A-2) it was submitted that there was no vacancy which ^{fell} failed to be filled up by direct recruitment. The applicants have not placed before us the relevant data by stating what was the entire strength at various levels of the department in order to show that there was a breach of the quota rule. It will be only on the basis of the factual material supplied that ^{an} inference in this respect ^{can} will be raised that the quota rule had been breached. In the absence of such material it is not possible for us to ^{accede} ~~concede~~ with this contention.

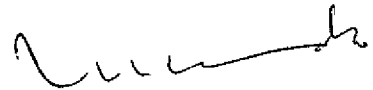
7. We must mention that the learned counsel for the Respondents brought to our notice that the position as brought out by SRO 221/87 also stood amended by SRO 2 E dt. 14.3.1991 to which reference has been made in their written statement. That SRO has not been

challenged in the present application and whatever we have said about would not apply to the position which has been brought about by SRO 2 E dt. 14.3.1991 which is not the subject matter that has been challenged before us.

8. In view of the above reasons, we see no merit in the application, it is dismissed.



(P.P. SRIVASTAVA)
MEMBER (A)



(M.S. DESHPANDE)
VICE-CHAIRMAN

B.