

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

ORIGINAL APPLICATION NO.1295/1993

this the 17th day of July, 2000.

CORAM:

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN

HON'BLE SHRI GOVINDAN S.TAMPI, MEMBER (A)

1. Raj Jamnadas Jumrani,  
Regional Secretary(Bombay) of  
All India Atomic Energy DPS  
Staff Association, Recognised by  
Department of Atomic Energy,  
having his address at C&S  
Group Stores, D.P.S, Anushakti Nagar,  
Bombay 400 094.
  2. Omprakash Giri, Storekeeper,  
Central Stores Unit, DPS, BARC,  
Trombay, Bombay 400085  
Vice President, All India Atomic  
Energy, D.P.S.Staff Association.
  3. B.D.Bhatia,  
S.K., DPS,  
CSV, BARC,  
Bombay 85.
  4. Kum.C.Ramani,  
J.S.K., DPS,  
CSV, BARC,  
Bombay-85.
- ...Applicants

(By Advocate Sri K.Shivramkrishnan)

vs.


1. Union of India, through the  
Secretary, Department of Atomic  
Energy, Anushakti Bhavan, CSM Marg,  
Bombay-400 039.
2. Executive Director, Nuclear Power Corporation,  
Anushakti Nagar, Bombay-400 094. ..Respondents

(By Advocate Sri V.D.Vadhavkar and Shri M.I.Sethna)


O R D E R (ORAL)

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN:

The applicants 1 to 4 are employees of the Directorate of Purchase and Stores(DPS)in the Department of Atomic Anergy. The first two are office bearers of All India Atomic Energy DPS Staff



Association. In the year 1987 Union of India decided to set up Nuclear Power Corporation of India Ltd. under the Department of Atomic Energy. On establishment of the Corporation, the man power required was initially drawn from the Department of Atomic Energy (DAE). A large section of the staff in the DPS was transferred to the Corporation initially on deputation basis with option for permanent absorption, the terms and conditions and modalities of absorption being decided to be finalised within 12 months. However the absorption has not so far taken place. The applicants are those employees who were not transferred to the NPCIL. Their grievance is that the deputationists to NPCIL have two avenues of promotion, one in the Corporation and the other in the DPS while they do not have such dual chances. This, according to them, is violation of Article 14 and 16 of the Constitution. It is alleged in the application that the deputationists are promoted in the Corporation and they later come back to the DPS to accept higher posts superseding their seniors. They have quoted the instance of one Mr. N.S.Nair who while working as Store Keeper in the DPS went on deputation to NPCIL, got promotion as Senior Manager in Stores Department and came back to the DPS as Deputy Director superseding Mr. T.R.S.Thampi who was his senior when he went on deputation. It is further alleged by the applicants that in the Departmental Promotion Examination conducted by the DPS for the posts of Store Keeper, Assistant Stores Officer, Purchase Officer and Assistant Purchase Officer in May 1993, deputationists to NPCIL were allowed to participate and from a common panel, the deputationists got promoted. It is again alleged that a common examination was conducted for promotion to the post of Assistant Stores Officer allowing the deputationists to NPCIL also to participate and that two among the deputationists were promoted in the NPCIL whereas those in the DPS who participated in the examination were not promoted. The applicants are



further aggrieved that the NPCIL have issued a notification on 5th October 1993(Annexure D) to which the requests of those working in the DPS for participation is not being accepted. The action on the part of the first respondent in discriminating those who are left in the DPS in comparison to the deputationists in the NPCIL in the matter of promotion in the Department as also in the NPCIL , is arbitrary and irrational, allege the applicants. With these allegations, the applicants have sought for the following reliefs:

"a) The Applicants pray for a Writ of certiorari or any other writ order or direction in the nature of certiorari and call for the records pertaining to the examination announced by circular dated 5th October 1993 and after examining the legality, propriety or otherwise of the said order quash and set aside the same.

a1) issue a mandatory order to the Respondents directing them to appoint the candidates in the Directorate of Purchase & Stores who have passed the respective examination for promotion to the post of Junior Storekeeper and Storekeeper in the establishment of the Respondent No.2 and/or empanel and promote them before holding any examinations either exclusively or common to both the DPS and the deputationists.

b) In the alternative, this Hon'ble Tribunal will be pleased to order and direct the respondents to permit the eligible members of the staff in the DPS to appear for the said examination announced on 5th October, 1993 and in order to enable them to appear effectively postpone the date of examination for a more convenient date.

b1) Pending the hearing and final disposal of this application, the result of the examination conducted on 18th and 19th December 1993 be cancelled and/or withheld and/or directed not to be implemented by the Respondents in any manner whatsoever.

c) For such further and other order and direction in the nature and circumstances of this case, the Hon'ble Court may deem fit and proper;


c1) for permission to file a joint petition

d) for cost of the proceedings;"

2. On behalf of the respondent, an affidavit in reply has been filed by Senior Manager(HRS) of the second respondent opposing the

claim of the applicants. It has been contended that the NPCIL is a Company incorporated under the Companies Act, 1956, that the applicants who are employees of the Atomic Energy have no right to claim any appointment or promotion in the Corporation, that the examination proposed to be held as per notification dated 5th October, 1993 was being held to fill up the vacant posts in the Corporation, that the employees of the DPS under the Department of Atomic Energy have no right to claim participation in the examination and that by promoting the deputationists in the Corporation, none of the legal rights of the applicants has been violated, that Mr. N.S.Nair happened to supersede Mr.Thampi because Mr.Thampi chose not to appear before the Selection Committee, that the allegation that the promotions gained by the deputationists in the Corporation have been taken into account by the DPS when the deputationists go back to the DPS, is wrong and baseless, that the deputationists till they are finally absorbed retain their lien on their posts in the parent cadre and therefore they have a legal right to be considered for promotion in DPS alongwith their juniors, that the applicants did not opt for deputation and that there is absolutely no legitimate grievance of the applicants that calls for adjudication in this case. In the reply filed by the second respondent to MP 62 of 1994 opposing admission of the application and prayer for interim relief, it has been contended that this Tribunal has no jurisdiction to entertain this application and grant relief since NPCIL has not been notified under Section 14(2) of the Administrative Tribunals Act, 1985.

3. On a careful perusal of the pleadings and materials which are placed on record and on hearing the learned counsel appearing for the parties, we do not find any legitimate basis for the grievance of the applicants projected in this application. So long



as the officials of the DPS who are on deputation to NPCIL have not been finally absorbed, their lien on the posts which they held in the DPS have to be retained and as a consequence they have to be considered for promotion in the DPS in their turn irrespective of whether they have been promoted in the Corporation or not. The argument that the deputationists have two avenues of promotion, one in their parent cadre and the other in the borrowing Corporation, while the applicants have only one channel in their department alone and this would amount to violation of Articles 14 and 16 of the Constitution of India is a childish argument which does not call for any serious consideration. It is normal as stated supra that a person on deputation has to be considered for promotion in his turn in the parent cadre though he may be promoted in the borrowing department or Corporation to higher posts on ad-hoc basis.

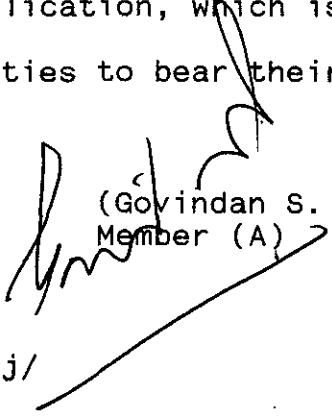
4. The claim of the applicants that they should be allowed to participate in the examination conducted by the NPCIL in terms of the notification dated 5th October 1993 (Annexure D) is baseless and misconceived. The second respondent NPCIL is a Company incorporated under the Companies Act, 1956 and is a separate legal person. There is no master and servant relationship between the second respondent and the applicant and therefore the applicants cannot claim any right for participation in the examination proposed to be held by the Corporation to make promotion in their Organisation. The applicants therefore are not entitled any order directing the second respondent either to allow them to participate in the examination announced by Annexure D memorandum dated 5th October 1993 or for a direction to the respondents to promote the applicants to the posts of Junior Store Keeper, Store Keeper etc. in the Corporation or for restraining the respondents not to publish the result of the



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examination held on 18th and 19th of December, 1993. The NPCIL has not been notified under Section 14(2) of the Administrative Tribunals Act. This Tribunal lacks the jurisdiction to give any such direction and further the applicants do not deserve any reliefs as sought for in this application.

5. In the result in the light of what is stated above, the application, which is devoid of merits is dismissed leaving the parties to bear their own costs.

  
(Govindan S. Tampi)  
Member (A)

  
(A.V. Haridasan)  
Vice Chairman

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