

CENTRAL ADMINISTRATIVE TRIBUNAL: MUMBAI BENCH: MUMBAI

ORIGINAL APPLICATION NUMBER 482 OF 1995 94 N

WEDNESDAY, THIS THE 7TH DAY OF JULY, 1999.

Shri Justice S.Venkataraman, .. Vice-Chairman.

Shri S.K.Ghosal, .. Member(A).

1. A.J.Fernandes,
Superintendent, Office of the
General Manager, Canteen Stores
Department, Ministry of Defence,
Adelphi, 119, M.K.Road,
Bombay-400 020.
 2. P.V.Joseph,
Superintendent,
Office of the General Manager,
Canteen Stores Department,
Ministry of Defence, Adelphi 119,±
M.K.Road, Bombay-400 020.
- .. Applicants.

(By Advocate Shri R.C.Kotiankar)

v.

1. Union of India
(Through: Secretary to Government
of India, Ministry of Defence,
South Block, New Delhi-110 001.)
 2. Secretary,
Board of Control,
Canteen Stores Department,
Ministry of Defence,
Army Head Quarters, DHO
P.O., New Delhi-110 001.
 3. General Manager,
Canteen Stores Department,
Ministry of Defence,
Adelphi, 119 M.K.Road,
Bombay-400 020.
- . Respondents.

(By Standing Counsel Shri R.K.Shetty)

O R D E R

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Justice S.Venkataraman, Vice-Chairman:-


The applicants were promoted as Stenographers Selection Grade in the scale of Rs.1400-2300 with effect from 14-3-1988. With effect from 1-1-1986 the pay scales of Stenographers Grade -II was revised to Rs.1400-2600. As a consequence of this, the applicants were placed in the scale of Rs.1400-2600 with effect from 14-3-1988. Prior to the revision of pay scales the next channel of promotion for a Stenographer Selection Grade was to the post of Office Superintendent in the pay scale of Rs.1400-2600. After revision of pay scale of Stenographer Grade -II, the pay scale of that post and the post of Office Superintendent became same and the post of Office Superintendent ceased to be a promotional post in the sense no higher scale was prescribed for the Office Superintendent's post, though as per the Recruitment Rules Office Superintendent's post continues to be promotional post to the post of Selection Grade Stenographer. The post of Assistant Manager in the scale of Rs.2,000-3200 is a promotional post to the post of Office Superintendent and Store Keeper. The applicants were transferred to officiate as Office Superintendents from February/March, 1983. The grievance of the applicants is that the service rendered by them as Stenographer Selection Grade is not considered equivalent to the service in the cadre of Office Superintendent and that as now the post of Office Superintendent and Selection Grade Stenographer have the same pay scale, there should be a provision for promotion of Selection Grade Stenographer directly to the

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post of Assistant Manager. The applicants in this application have sought for a declaration that the service rendered by the applicants as Stenographers Selection Grade shall be deemed to be equivalent to and on par with Superintendents post and also for the purpose of eligibility for promotion to the post of Assistant Manager. They have also sought for a declaration that the non-inclusion of the applicants name in the impugned eligibility^{ls} of officers for promotion to the post of Assistant Manager is illegal and discriminatory.

2. The respondents in their reply have contended that the Recruitment Rules make it clear that for promotion as Assistant Manager one has to work in the post of Superintendent on a permanent basis for a minimum period of 3 years, that the applicants are not eligible directly to be promoted as Assistant Manager without putting in the requisite number of years of service as Office Superintendent and that the relief now sought for in the applicant^{ls} cannot be granted.

3. The learned counsel for the applicant mainly contended that after the pay scale of Stenographer Selection Grade was made equal to the pay scale of Office Superintendent, the action of the respondents in including the names of Selection Grade Stenographers in the list of candidates eligible for being promoted/posted as Office Superintendents is not valid, that as the posts of Office Superintendent and the Selection Grade Stenographer carry the same pay scale, the Selection Grade Stenographer must be made eligible for promotion to the post of Assistant Manager directly. Another contention that was raised by him was that in the Recruitment Rules as amended, eligibility



for promotion as Assistant Manager is shown as 3 years regular service as Superintendent failing which 8 years regular service in the grade of Superintendent/SGC/Asst.Acctt./Selection Grade Stenographer and that though the cadre of Selection Grade Clerk and Assistant Accountant are lower than the cadre of Selection Grade Stenographer as those two posts carry lesser pay than the post of Selection Grade Stenographer, ~~and that~~ while a Selection Grade Clerk can become eligible for promotion as Assistant Manager by putting in 8 years of service, even the Selection Grade Stenographer who is at higher scale is also required to put in the same number of years of service and he cannot count his service in the grade of Stenographer and that this is discriminatory. He contended that as the Selection Grade Stenographers have higher pay scale, they should be placed above the cadres of Selection Grade Clerks and Assistant Accountant.

4. In this application we are not required to go into the question as to whether in view of the revision of pay scales of Selection Grade Stenographers, the post of Office Superintendent can be considered to be a promotional post for the applicants. The prayer of the applicants that because the pay scales of Selection Grade Stenographers and Office Superintendents are same, Selection Grade Stenographer must be made eligible for promotion directly to the post of Assistant Manager, cannot be entertained in view of the Recruitment Rules. The mere fact that the pay scale of the two posts is the same does not necessarily mean that for the purpose of promotion to the next higher cadre they should be treated equally. The next promotional

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post namely Assistant Manager being in the administrative cadre, the rule requires that the feeder channel should be either Store Keeper or Office Superintendent. We cannot give a direction that the rule should be amended so as to make the Selection Grade Stenographers directly eligible for promotion as Assistant Managers.

5. The applicants appear to think that under the Rules a Selection Grade Clerk who has put in 8 years of regular service can straight away be promoted as Assistant Manager. It is no doubt true that the particular rule is not very happily worded. But, a reading of all the columns would indicate that the Selection Grade Clerk or Assistant Accountant cannot straight away become eligible for promotion as Assistant Manager without going through the cadre of Office Superintendent. Clause (2) of column No.8 must be taken to mean that for eligibility one must have put in regular service as Superintendent for 3 years and if such a candidate is not available, then an Office Superintendent who has put in 8 years of service in the cadre of Office Superintendent and in any of the 3 lower cadres ^{taken together} would be eligible. That this is how even the respondents have understood the rule can be gathered from the eligibility list prepared by them of all candidates as on 30-11-1993 (Annexure-IIIA). That list shows that only candidates working as Office Superintendents have been included in the eligibility list. At the top only those Office Superintendents who have completed regular 3 years service in the grade are included. Thereafter Office Superintendents who have put in less than 3 years in the cadre of Office Superintendent but who have put in total 8 years of service both in the cadre of Office Superintendent and in the lower cadre are

included. When this is the situation, we do not see how the applicants can claim any discrimination. Even the Selection Grade Stenographer who is promoted as Office Superintendent will be entitled to count his service in the Selection Grade Stenographer post for the purpose of 8 years service requirement as is the case with the other three cadres. Just because the applicants as Selection Grade Stenographers got a higher pay scale on account of arbitration, they cannot claim preferential treatment with regard to the service requirement for higher promotion. At any rate, this Tribunal cannot give any direction of the nature sought for by the applicants. The policy behind the Recruitment Rules cannot be said to be arbitrary or illogical.

6. For the above reasons this application is rejected.

No costs.



(S.K. GHOSAL)
MEMBER(A)

np/



(S. VENKATARAMAN)
VICE-CHAIARMAN.