

(27)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

D.A.No. 325/89

T.A.No.

Dt. of Decision: 28-12-92

Geological Survey of India Employees' Association Petitioner

Mr G. Venkateswara Rao

Advocate for
the Petitioner
(s)

Versus

Dy. Director General, Geological Survey Respondent.
of India, Himayatnagar, Hyderabad

Sri N. V. Ramana

Advocate for
the Respondent
(s)

COURT:

THE HON'BLE MR. MAJ GEN A.B. GORTHI, MEMBER (ADMN)

THE HON'BLE MR. T. CHANDRASEKHARA REDDY, MEMBER (JUDL.)

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether their Lordships wish to see the fair copy of the Judgment?
4. Whether it needs to be circulated to other Benches of the Tribunal?
5. Remarks of Vice-Chairman on Columns 1, 2, 4 (to be submitted to Hon'ble Vice-Chairman where he is not on the Bench.)

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(HABG)
M(A)

T. C. R.
(HTCR)
M(J)

(28)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION No. 325/89

DATE OF JUDGEMENT: 28 DECEMBER, 1992

Between

1. Geological Survey of India
Employees' Association
(Regd. No. 822) rep by its
General Secretary
Mr P.C. Ramakrishnayya .. Applicant
2. Mr PM Chandrasekhar
3. Mr K. Jagannadha Rao
4. Mr L. Sriramulu .. Applicants

and

1. Union of India rep by
Secretary to Govt.,
Ministry of Steel & Mines
Dept. of Mines, Shastri Bhavan
New Delhi.
2. The Secretary
Min. of Home Affairs, Govt. of India
Dept. of Personnel & Administrative
Reforms, New Delhi.
3. Director General, Geological Survey of
India, 4, Chowringee Lane,
Calcutta - 700 016.
4. Dy. Director General,
Geological Survey of India, Training
Institute, Himayatnagar, Hyderabad-29. .. Respondents

Counsel for the applicant :: Mr G. Venkateshwara Rao
Counsel for the respondents :: Mr N.V. Ramana, Addl. CGSC

CORAM:

HON'BLE MAJ. GEN. A.B. GORTHI, MEMBER (ADMN)

HON'BLE SHRI T. CHANDRASEKHARA REDDY, MEMBER (JUDL.)

..2.

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JUDGEMENT OF THE DIVISION BENCH DELIVERED BY HON'BLE
SHRI T. CHANDRASEKHARA REDDY, MEMBER (JUDL.)

This is an application filed under Section 19 of the Central Administrative Tribunals Act, to strike down the Geological Survey of India Group 'C' (Ministerial) Posts Recruitment Rules, as notified vide Notification dated 25.7.83 issued by the first respondent, in so far as they relate to the promotion to the post of Upper Division Clerk from the Post of Lower Division Clerk by declaring the prescription of 8 years qualifying service for promotion to the post of Upper Division Clerk against 80% quota from the post of Lower Division Clerk as illegal, arbitrary and unconstitutional and holding that the Lower Division Clerks are entitled for promotion to the post of Upper Division Clerks on completion of 3 years qualifying service and pass such other orders as may deem fit and proper in the circumstances of the case.

2. The facts giving raise to this OA in brief may be stated as follows:

3. The first applicant is a Registered Association in which applicants 2 to 4 are members of the first applicant's association. Applicants 2 to 4 were initially appointed as Lower Division Clerks in the office of the Dy. Director General Geological Survey Of India Training Institute, Himayatnagar, Hyderabad (Respondent 4).

4. The President, in exercise of the powers conferred by the proviso to Article 309 of the Constitution had framed rules regulating the method of Recruitment to Class-III (Ministerial) posts in Geological Survey of India as published in Gazette of India, dated 11.1.1969. At the time of their appointment ~~as~~ of the applicants 2 to 4 as Lower Division Clerks,

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the Recruitment Rules governing promotion to the post of Upper Division Clerks were as under:

<u>Item No.10.</u> Method of recruitment	whether direct recruitment or by deputation/ transfer and percentage of the vacancies to be filled by various methods	: i) 90% by Promotion ii) 10% by deputation
<u>Item No.11. Promotion</u>		: 1) 80% on the basis of seniority-cum-fitness from the grade of L.D.C. with 3 years service in the grade. 2) 20% on the results of Competitive examination from the grade of L.D.C. with 3 years service in the grade.

Subsequently, as per notification dated 25.7.83, the recruitment rules were amended as follows:-

<u>Item No.12</u>	<u>Promotion</u>
In case of recruitment by promotion/deputation/transfer grades from which promotion/deputation/transfer to be made	a) 80% from the grade of L.D.C. with 8 years regular service in the grade. b) 20% through a Departmental competitive examination to be conducted by the Director General, Geological Survey of India. L.D.C. with 5 years regular service in the grade shall be eligible to appear in this examination.

5. The qualifying service for promotion to the post of Upper Division Clerk from the post of Lower Division Clerk against either 80% quota or 20% quota was 3 years only prior to July, 1983. In the amended recruitment rules of 1983, the qualifying service for promotion through Departmental Promotion Committee was prescribed as 8 years, while for the competitive examination quota of 20%, the qualifying service was prescribed as 5 years. It is the case of the applicants that there is no justification in fixing 8 years qualifying service in the grade of Lower Division Clerk for promotion to the post of Upper Division Clerk, which is the next higher grade. According to the applicants, the fixation of 8 years qualifying

service for the post of Upper Division Clerk from the post of Lower Division Clerk has no rational nexus to the objective sought to be achieved. So, fixation of 8 years of qualifying service for promotion to the post of Upper Division Clerk from the post of Lower Division Clerk, according to the applicants, is illegal, arbitrary and unconstitutional and violative of Article 14 and 16 of the Constitution of India. The qualifying service for promotion from the post of Lower Division Clerk to Upper Division Clerk ought to have been fixed as * 5 years but not 8 years. According to the applicant, the recruitment rules governing the promotion to the post of Upper Division Clerk from Lower Division Clerk as amended in July 1983 are liable to be struck down in so far as they prescribe 8 years qualifying service for promotion to the post of Upper Division Clerks. Hence, the present OA is filed for the relief as already indicated above.

6. Counter is filed by the respondents opposing this OA.

7. We have heard Mr G.Venkateswara Rao, learned Standing counsel for the applicant and Mr N.V.Ramana, counsel for the respondents.

8. Where the recruitment rules provide for filling up 80% of the vacancies of Upper Division Clerk from Lower Division Clerks on the basis of 8 years of length of service in the post of Lower Division Clerk and other 20% of the vacancies are concerned that are to be filled up through limited departmental competitive examination, the mere fact that separate limited departmental ^{examination} is prescribed will not amount to hostile or invidious discrimination. As a matter of fact, the learned counsel appearing for the applicant did not dispute the above said proposition of law. But the grievance of the applicant is that the 80% of the vacancies ~~are~~ to be filled up from the post of Lower Division Clerk to the post of Upper Division Clerk.

the prescription of 8 years of regular service in the lower grade by the recruitment rule~~s~~ is arbitrary and illegal. In the counter filed by the respondents, it is maintained that broad guidelines are issued by Department of Personnel and Administrative Reforms and it is open to the respondents to change, according to their suitability and requirement, the length of service that is required for promotion of an employee from the post of Lower Division Clerk to the post of Upper Division Clerk. So, that being the position, it is up to the respondents to take suitable action in the matter if they are of the opinion that there is no justification in fixing 8 years qualifying service in the lower cadre for promotion of the applicants and also of similarly placed persons like the applicants that are working in the office of the respondents. We are of the opinion that it will not be just fit and proper to interfere with the said recruitment rule that prescribes 8 years of qualifying service for promotion from the post of Lower Division Clerk to the post of Upper Division Clerk. As a matter of fact, the counter of the respondents goes to show that the very same recruitment rule with regard to the eligibility of the prescribed period of 8 years from the post of Lower Division Clerk to ~~Upper~~ Upper Division Clerk is being adopted by many of the Departments of the Central Government. So, in view of this position, we do not see any discrimination on the part of the applicants in fixing 8 years of qualifying service for promotion to the post of LDC to the post of Upper Division Clerk, as similarly placed employees of other Departments like the applicants, are treated in alike manner in the matter of promotion for the post of Upper Division Clerk from Lower Division Clerk.

9. The learned counsel appearing for the applicant relied on a Supreme Court decision reported in 1974(2) SLR 508 in Mohammad Shujat Ali and others vs Union of India wherein it is held that "Classification must be founded on an intelligible differentia which distinguishes certain persons or things that are grouped together from others and that differentia must have a rational relation to the object sought to be achieved by legislation". It is the contention of the learned counsel for the applicant that on the basis of the said decision that in fixing 8 years of qualifying service with regard to the applicants' promotion from the post of Lower Division Clerk to the post of Upper Division Clerk has absolutely no nexus to the objectives sought to be achieved and so in view of this position that the recruitment rule is liable to be set aside.

10. The rule framing authority probably felt that by prescribing 8 years of qualifying service for promotion from the post of Lower Division Clerk to the post of Upper Division Clerk working in the respondent's organisation would be able to discharge their duties better on account of their length of service in the lower grade. It is not for this Tribunal to examine the wisdom of the rule making authority and substitute its opinion for the wisdom of the rule making authority. As already pointed out, it is for the respondents to ~~act~~ ^{take suitable action} if the respondents are satisfied that fixing of 8 years qualifying service for promotion from the post of Lower Division Clerk to that of Upper Division Clerk is arbitrary. So, this OA is liable to be dismissed. Even though this OA is dismissed, we make it clear that it will be open to the respondents to examine the question of fixing 8 years of qualifying service for promotion to the post of Upper Division Clerk from the post of Lower Division clerk is reasonable in the

light of the guidelines that are laid down in the Ministry of

Home Affairs letter No.14017/24/76-Estt(RR) dated 22.5.79,
and take proper decision.

11. As we see no merits in this OA, this
OA is liable to be dismissed and is accordingly dismissed
leaving the parties to bear their own costs.

Amalgam

(A.B. GORTHI)

MEMBER (A)

T. Chandrasekhara Reddy

(T.CHANDRASEKHARA REDDY)

MEMBER (J)

Dated: 28 December, 1992

mvl

8/30/12/92
Dy. Registrar (Judl.)

Copy to:-

1. Secretary to Govt., Ministry of Steel & Mines, Deptt of Mines, Union of India, Shastri Bhavan, New Delhi.
2. The Secretary, Ministry of Home Affairs, Govt. of India Deptt. of Personnel & Administrative Reforms, New Delhi.
3. Director General, Geological Survey of India, 4, Chowringee Lane, Calcutta-700 016.
4. Dy. Director General, Geological Survey of India, Training Institute, Himayatnagar, Hyd-29.
5. One copy to Sri. G.Venkateshwara Rao, advocate, 1-1-287/27, Chikkadapally, Hyd.
6. One copy to Sri. N.V.Ramana, Addl. CGSC, CAT, Hyd.
7. One spare copy.

Rsm/-

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R.M. (1) 29/12/92 C.A. 325/89
TYPED BY

COMPARED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CHECKED BY APPROVED BY
HYDERABAD BENCH

HYDERABAD

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: AT HYDERABAD

THE HON'BLE MR. A.B. Gorai V.C. Am.

AND

THE HON'BLE MR. R. BALASUBRAMANIAN: M(A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY: M(J)

AND

THE HON'BLE MR. C.J. ROY : MEMBER (JUDL)

Dated: 22/12/1992

ORDER/JUDGMENT:

R.A./-C.A./M.A. No.

in-

O.A. No.

325/89

T.A. No.

(W.P. No.)

Admitted and Interim Directions issued

Allowed

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for default

M.A. Ordered/Rejected

No order as to costs.

pvm.

