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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH,
HYDERABAD.

D.A. No. 581 of 1989.

Date of decision: 2. 5. 90

Between:

K. G. K. Bhaskar. .. Applicant.

Vs.

Development Commissioner for Iron
and Steel, Govt. of India, Ministry
of Steel and Mines, Department of
Steel, Calcutta and others. Respondents.

Appearance:

Applicant in person.

Sri E. Madhanmohan Rao, Addl. Standing counsel
for Central Government ~~for the Respondents~~.

CORAM:

Hon'ble Sri B. N. Jayasimha, Vice-Chairman.

Hon'ble Sri J. Narasimhamurty, Member (Judicial).

Judgment of the Bench pronounced by
Hon'ble Sri J. Narasimhamurty,
Member (Judicial).

-:-

This application is filed for directions to the respondents 1 and 2 for finalising the combined recruitment rules without further delay and for recasting the seniority in the light of the proposed combined recruitment rules cadre-wise including the office of the respondent No.1 and its six regional offices from the date of their eligibility/permanancy.

The facts of the case are as follows:

The offices of the Regional Commissioners

for Iron and Steel (formerly known as Regional Iron and Steel Controllers) were established during the year 1971 initially with branches at Delhi, Bombay, Calcutta

and Madras. Later during the year 1972 the Regional Offices at Kanpur and Hyderabad were added,

The main office for the above regional offices is the Development Commissioner for Iron and Steel, Calcutta, Respondent No.1 (formerly known as Iron and Steel, Controller, Calcutta) under the Ministry of Steel and Mines, Department of Steel, New Delhi.

That on account of temporary sub-regional offices came into existence temporary recruitment rules were framed for manning the sub-regional offices, both for Gazetted and non-gazetted staff. Since the regional offices were to function on temporary basis the lower level posts like Stenographer, L.D.Cs. Peons were appointed on temporary basis calling persons from local employment Exchanges. However, the supervisory level posts of UDC-Cum-Cashier being filled in on deputation basis since the sanction obtained was from the Ministry of Steel and Mines, Department of Steel, on year to year basis for the continuance of its regional offices.

The posts of Gazetted and Non-gazetted posts were manned on temporary basis and the supervisory level posts being filled on deputation basis borrowing incumbents from other departments. The Regional Offices were to function purely on temporary basis, the recruitment rules thus framed also had a temporary status. All the supervisory level posts viz., all Gazetted Officers and non-gazetted supervisory posts like Inspector, Head-Clerk and P.A., and also in some cases UDC-cum-Cashier were taken on transfer-cum-deputation basis borrowing from other departments in terms of the temporary recruitment rules thus formed.

The Regional Offices of the Development Commissioner for Iron and Steel, Calcutta, viz., the aforesaid six Regional Development Commissioner for Iron and Steel offices came into permanent footing during the year 1978.

The applicant joined the office of the Regional Development Commissioner for Iron and Steel, Kanpur, with effect from 1-7-1976 on deputation basis. Since the regional offices came into permanent footing during the year 1978, the applicant sought for permanent absorption in the Department. The office of the Development Commissioner for Iron and Steel, Calcutta, Respondent No.1 had agreed to his permanent absorption on the post of P.A., with effect from 6-12-1978. Thus for all practical purposes the applicant holds a permanent status member of Respondent No.1 and is working satisfactorily under his control.

Consequent upon the creation of the permanent posts in the Regional Offices and to have a wider scope of promotional avenues for its staff members, the Department of Steel, Respondent No.2, instructed the Respondent No.1 to initiate action for finalisation of the combined recruitment rules during the year, 1979.

The applicant was requesting the respondent No.1 for early finalisation of the combined recruitment rules and for empanelling seniority in the light of the combined recruitment rules. The applicant tried his best through all medias available i.e., personally requesting and through representations for fixing seniority and finalisation of the combined recruitment rules early. The applicant also requested R-1 for considering promotion for P.As., in the regional offices to the post of Inspector, the only next grade

available for the applicant in regional offices. The same was not considered on the plea that temporary recruitment rules have no provision for promotion to the post of Inspector. The point regarding finalisation of the combined recruitment rules was made repeatedly time and again by an upper honourable ~~quorum~~ quorum i.e., Regional Development Commissioners for Iron and Steel meetings which are held quarterly but the Respondent No.1 had been evading and pushing his responsibility stating that the combined recruitment rules submitted to Ministry, Ministry directed for modification, Ministry required desired clarification, clarifications being sent, Ministry desired further information. It is stated that R-1 had been making efforts for complying the instructions of the Department of Steel, Respondent No.2 had been asking for repeated clarifications, modifications. R-1 had asked for comments from R-3 three to four times on the draft recruitment rules. It is stated that the responsibility lies jointly both on Respondents Nos., 1 and 2. Because of the correspondence between R-1 and 2, no effective steps for finalising the combined recruitment rules is coming out. The applicant states that the lingering process is giving wider scope of mis-using the abusal of power by Respondent No.1 inasmuch as one set of persons are being given a generous offer of a V.V.I.P., treatment, that is to say all concessions and scope of promotion given as per liking overruling all proprieties of law and favouritism. While on the other hand the other set of persons have no voice but then to suffer. Thus in other terms one set of persons are being benefited by the non-finalisation of the combined recruitment rules, whereas the other set of persons, viz., Jr. Stenographers and P.As., Gr.II in the regional offices are the sufferers. The same was brought to the notice of Respondent No.1 by the applicant but still then

the respondent No.1 has not shown any consideration on the finalisation of the combined recruitment rules.

The Office of the Development Commissioner for Iron and Steel, Calcutta, Respondent No.1 in whose office Stenographers placed in Gr.II i.e., equal on par with the P.As., in the Regional Offices (in the revised scale of Rs.1400--2300) are having promotional aspects/avenues open to the post of Assistant in the revised pay scale of Rs.1400--2600 whereas the same was not incorporated for the P.As., at Regional Offices in the temporary recruitment rules framed during the year 1971. Thus from the very beginning the office of the Development Commissioner for Iron and Steel, Calcutta, Respondent No.1 had been following the principle of discrimination policy not treating in equality before law as adumbrated in the Constitution of India under Article 14. Thus the Jr. Stenographers/P.As., in the Regional Offices are being treated as secondary persons. Though the duties, responsibilities and pay-scales are equal in status, the simple process of amending the scope of combined recruitment rules by Respondent No.1 to add P-As., also as Assistant joining the main stream could be possible but the same was not done thus delaying to finalise the combined recruitment rules for the last ten years.

Though the Department of Steel, Respondent No.2 desired for formation of the combined recruitment rules by the Development Commissioner for Iron and Steel, Calcutta, Respondent No.1 during the year 1979 the same have not been finalised till date for Group 'C' and 'D' employees only. Here it is note worthy that the recruitment rules both Gazetted and non-gazetted were initiated during the year 1979 to have its own combined recruitment rules, the Gazetted recruitment rules were finalised long ago during the year, 198

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On account of intentional delay in finalising the combined recruitment rules for Group 'C' and 'D', which though only could be got approved from the Administrative Department i.e., Department of Steel, Respondent No.2, the same is being lingered on one pretext or the other. The applicant had been a victim with regard to his career prospects, seniority, promotions and inter alia suffered and shall lose retirement benefits in terms of monetary loss heavily, in case the combined recruitment rules are not finalised early. The applicant represented on 25-9-1987, 11-7-1988 and interalia again on 16-2-1989 for early finalisation of the combined recruitment rules as it was badly affecting the promotional prospects of the P.As., based in the regional offices. No reply to any of his representations has been given to him till date. The representations dated 25-9-1987, 11-7-1988 and 16-2-1989 are filed as Annexures 'A', 'B' and 'C' respectively.

Though in terms of the Government instructions vide M.H.O., O.M.No.23/27/68-Ests.(B) dated 26-12-1968 read with Department of Personnel O.M.No.23/51/71-Ests(B) dated 25th September 1972 as ~~xxxxxxxxxxxxxx xx~~ it was brought to the notice of Respondent No.1 that the recruitment rules were to be finalised within a period of six months, contrary to the rules, the Respondent No.1 has been evading to finalise the combined recruitment rules for Group C and D posts on one pretext or the other for the last ten years. ~~xx~~

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The applicant states that he had put in more than 25 years service out of which 13 years as P.A., and the delay is detrimental and injurious with regard to career prospects.

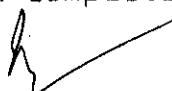
He states that there is a time factor in framing the recruitment rules and it is not open for the respondents to drag or delay unduly without any cause or reason to any provision of the statute in the capacity of a public office.

Respondents 1 and 2 being public offices have a statutory duty to perform and can not overlook or refrain from closing its eyes for indefinite period. Ten years after all is not a small period and is in violation of the principles of natural justice in denying the rights of the applicant. Hence the application.

The respondents filed their counter contending as follows:

It is true that the office of the Regional Development Commissioner for Iron & Steel were established with initially branches at Delhi, Bombay, Calcutta and Madras. It is also true that later during the year 1972 the Regional Offices at Kanpur and Hyderabad were added.

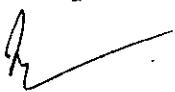
That on account of temporary sub-regional offices came into existence temporary recruitment rules were framed for manning the sub-regional offices, both for Gazetted and non-gazetted staff is incorrect. Initially all the appointments will be made on temporary basis and on completion of qualifying service



satisfactorily and as per rules, the staff will be regularised or made permanent. It is submitted that the staff of regional office at lower grade were appointed on temporary basis. The higher posts were filled on deputation basis on the ground that promotion channel of lower grade staff who were recruited directly may not be reduced. The Recruitment rules in respect of regional offices came into force vide Department of Steel Notification dated 24-2-1975. The allegation that the said rules are temporary is incorrect. The said rules are still in force and that the promotions are being ordered as per the said rules until new rules are framed and notified. It may also be submitted that the posts in Regional Offices including the post of P.A., were declared as permanent vide Department of Steel Letter dated 6-12-1978. The allegation that the offices were to function purely on temporary basis is also incorrect.

It is stated that R-3 being the appointing authority, appointed the applicant to the post of P.A., in the said office. The existing recruitment rules under which the applicant was initially appointed has been issued in the year, 1975. It is stated that the post of the applicant has been declared permanent with effect from 6-12-1978.

The allegation that R-1 is misusing its power by giving generous offer of a VIP treatment to a set of persons is not correct. That the staff matters of main offices is regulated under a separate Recruitment Rules which were framed long before the setting up of Regional Offices. It is stated that the Recruitment Rules in respect of Regional Offices were framed after setting up of Regional Offices. The question of



Finalisation of finalisation of combined Recruitment Rules in respect of whole organisation came later on. Since then efforts are being made to finalise the combined Recruitment Rules keeping in view of the difficulties involved in the status of main office and its subordinate offices. It is submitted that the staff matters of main office and regional offices are at present governed under two-separate Recruitment Rules one is for main office which was framed long before the setting up of Regional Office and the other Recruitment Rules were framed for Regional Offices. All promotions/ confirmations are regulated under these Recruitment Rules. It is stated that the status of Main office and Regional Office is not the same and the posts in those offices are not identical in all respects. As such a lot of difficulties are involved in framing combined Recruitment Rules. All efforts are being made to furnish the same and it is expected to be finalised shortly. It is stated that initiatives have already been taken to finalise the combined Recruitment Rules. In response to representation dated 22-7-1988 a reply was sent to Regional Development Commissioner for Iron and Steel, Hyderabad.

It is stated that there cannot be any comparison between Stenographer/PAs in the Regional Offices and other offices. The volume and quantity, nature, responsibilities and duties differ from office to office. It is stated that chances of promotion cannot be claimed as a matter of right. The applicant by knowing the promotional avenues had joined in the organisation in the year, 1978. It is stated that combined Recruitment rules are under consideration before the Government and are expected to finalise shortly. The applicant is not entitled for any relief. The application has to be dismissed.



The applicant argued the matter in person.

Sri E.Madanamohana Rao, Additional Standing Counsel for respondents argued.

The contention of the applicant is that the Main office for Regional Development Commissioners is the Development Commission for Iron and Steel, Calcutta, respondent No.1 herein formerly known as Iron and Steel Controller, Calcutta under Ministry of Steel and Mines, Department of Steel, New Delhi. The Regional Development Commissioners Offices ~~came into existence~~ came into existence in 1971 with its branches at Delhi, Bombay, Calcutta and Madras. In 1972, Regional Offices at Kanpur and Hyderabad were also established. The recruitment was made to the Regional Offices on temporary basis. The Regional Offices became permanent in 1978. There are Sub-Regional Offices established and temporary recruitment rules were framed for Sub-Regional Offices both for Gazetted and Non-gazetted staff. Some members were taken on deputation and some were recruited calling persons from Employment Exchanges for lower categories. The Supervisor level posts were filled in on deputation basis. The Regional Offices were to function purely on temporary basis and the recruitment Rules were framed on a temporary basis.

The applicant joined in the office of the Regional Development Commissioner for Iron and Steel, Kanpur with effect from 1--7--1976 on deputation basis. After the Regional Office ^{became} ~~came into~~ permanent being during the year, 1978, the applicant sought for permanent absorption in the Department. The Office of the Development Commissioner, Iron and Steel, Calcutta, Respondent No.1 had agreed to absorb the applicant in the post of P.A., with effect from 6--2--1986. Thus for all practical purposes the applicant holds permanent status under Respondent No.1. After the Regional Office ^{to have} ~~became permanent~~, ~~xx~~ wider scope for promotional

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avenues for its staff members, the Department of Steel, Respondent No.2 instructed the Respondent No.1 to initiate action for finalisation of the combined recruitment rules during the year, 1979. The applicant was requesting R-1 for early finalisation of the combined recruitment rules and for empanelling seniority in the light of the combined recruitment rules. The applicant tried his best through all medias available i.e., personally, through representations for fixing seniority and finalisation of the combined recruitment rules early. He also requested R-1 for considering his ~~for~~ promotion ~~for~~ ^{from} the post of P.A., ~~in the Regional Offices~~ for the post of Inspector in the Regional Offices. The same was ^{under} considered on the plea that ~~the~~ temporary recruitment rules ~~xxx~~ ~~xxx~~ there is no provision for promotion to the post of Inspector. Respondent No.1 evading and pushing his responsibility stating that the combined recruitment rules were submitted to the Ministry, that the Ministry required some clarifications, that clarifications were being sent and that the matter is pending with the Ministry. So the combined recruitment rules were not finalised. Unless the Combined Recruitment Rules were finalised, they will not have promotional avenues for their posts. Applicant states that ~~some~~ ^{one} ~~employees~~ section of ~~people~~ who are working in the higher posts are being shown favouritism and they are getting all concessions and scope of promotion and they are being given promotions as per the ~~xx~~ liking of the superior officers. ~~So some section of people~~ ^{the other} ~~employees~~ are suffering without promotions. The applicant states that unless and until the Combined Recruitment Rules are framed, they have to suffer without promotion and regularisation also.

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The applicant further states that he was put in more than 25 years of service out of which 13 years as P.A., and the delay in finalising the combined recruitment rules by the Department causes stagnation of promotions of the eligible persons. The period of 10 years is not a small period and if persons stagnated ^{causing} without promotion is hardship to the Members of the staff.

The contention of the respondents is that on account of the temporary sub-regional offices came into existence, temporary recruitment rules were framed for manning the Sub Regional Offices both for Gazetted and Non-Gazetted is not correct. Initially ~~secret~~ all the appointments ~~will~~ be made on temporary basis and on completion of qualifying service satisfactorily as per the rules, the staff will be regularised or made permanent. The staff in the Regional Offices in the lower cadre were appointed temporarily and the posts in the higher cadre were filled in on deputation basis on the ground that the promotional channel to lower cadre staff who were recruited directly may not be reduced. The recruitment rules in respect of the Regional Offices came into force according to the Departmental Notification dated 24-2-1975. The said rules are not temporary. The said Rules are still in force and promotions are being ordered as per the said rules until new Recruitment rules are framed and notified. The posts in the Regional Offices including the posts of P.As., were declared as permanent as per letter dated 6-12-1978. The post of the applicant was also declared permanent with effect from 6-12-1978. The staff matters of the main Office is regulated under separate recruitment rules which were framed long before setting up of the Regional Offices.

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Offices of
There are/Regional Development Commissioners

for Iron and Steel formerly known as Regional Iron and Steel Controllers and the Development Commissioner's Office is the Head Office. For all the Regional Development Commissioners' Office, the members of staff were recruited on deputation and through Employment Exchanges etc. There are no combined Recruitment Rules framed for the offices under the control of the respondents on account of non-framing of Combined Recruitment Rules; thereby combined seniority list among the members of the staff is not being maintained. Though the members of the staff have completed 10 years of service, they do not know where they stand in the order of seniority. Until and unless the Combined Seniority list is prepared, they cannot get promotions in the various cadres. They are thus stagnating for want of Combined Recruitment Rules and Seniority list.

The respondents state that they are preparing the Recruitment Rules and sent them to the Government and they are being returned on some pretext or the other for rectification of defects. In that connection the delay has occurred. This explanation of the respondents for not finalising the Combined Recruitment Rules is far from satisfactory. They are not being finalised since 10 years which is not a small period. The explanation offered by the respondent cannot be accepted as it is most unnatural. The respondents ought to have rectified the ~~defects~~ ^{red} and submitted the same to the Government and pursued the matter.

The main plea of the respondent applicant is that the respondents are not evincing interest in

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Finalising the combined Recruitment Rules and drawing up seniority list. The applicant also states that the respondents are showing favouritism in giving promotions to certain categories and denying to others.

The applicant prays for a direction to the respondents for finalising the combined Recruitment Rules without further delay and also for a direction to the respondents to recast the seniority in the light of the proposed combined Recruitment Rules category-wise including the office of Respondent No.1 and its Regional Offices from the date of their eligibility.

Shri Madan Mohan Rao, learned Standing Counsel for the respondents relying on a decision of the Hon'ble Supreme Court, in "Supreme Court Employees' Welfare Association Vs. Union of India (1989 4 Supreme Court Cases 187) argued that it is not open to this Tribunal to issue a writ of Mandamus directing the respondents to take expeditious steps for finalising the combined Recruitment Rules. The Supreme Court in "Supreme Court Employees' Welfare Association Vs. Union of India" held:-

"When an executive authority exercises a legislative power by way of subordinate legislation pursuant to the delegated authority of a legislature, such executive authority cannot be asked to enact a law which he has been empowered to do under the delegated legislative authority."

In Gopalakrishnan Case (1976 2 SCC 883: 1976 SCC(L&S) 363: AIR 1976 SC 123), the Supreme Court observed "that it is

not possible to take the view that merely because the State Government does not see its way to give the required approval, it will justify the issuance of a writ of mandamus under Article 226 of the Constitution, as if the refusal of the State Government was ultra-vires or made mala-fide and arbitrarily".

We have given our careful consideration to the submissions made by the applicant and the learned Standing Counsel for the Central Government. In this case, it may be noticed that the respondents themselves, realising the inequity and injustice to which the category of stenographers have been put to, due to lack of any avenue of promotion, prepared the draft rules for approval of the Government of India long back. These rules were sent to the Government for according approval. For some reason or the other, the approval to these draft rules has been delayed. In the result, the applicant is allowed to stagnate in his present post without any promotion. It is in these circumstances that the applicant has approached this Tribunal. It needs hardly be mentioned that career advancement is a sine-quo-non for maintaining contended and efficient service. It appears that due to procedural and bureaucratic delays these well intended rules have not been finalised.

In the interests of justice and equity, we feel it necessary to exhort the respondents to take an early decision in regard to finalisation of the combined Recruitment Rules, so that the applicant's very genuine grievance is redressed at the earliest.



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We trust that the respondents will take immediate steps in finalising the combined Recruitment Rules without any further delay and draw the seniority list basing on the combined Recruitment Rules recasting the seniority of the applicant and the other members of the staff in various cadres including the office of the 1st respondent and its regional offices from the date of their eligibility.

The application is disposed of with the above observations. No order as to costs.

Mr Jayasimha

(B.N.JAYASIMHA)
Vice Chairman

(J.NARASIMHA MURTHY)
Member (Judl.)

105/90
Dated: 2-5-90

105/90
For DEPUTY REGISTRAR (J).

To

1. Development Commissioner for Iron and Steel, Calcutta.
2. The Secretary, Department of Steel, N. Delhi.
3. Regional Development Commissioner for Iron and Steel, Secunderabad.
4. One copy to Mr.K.G.K.Bhaskar, Personal Assistant, O/o. Regional Development Commissioner for Iron and Steel, 5th Floor, Surya Towers G.Block, 104, S.P.Road, Secunderabad-500003.
5. One copy to Mr.E.Madan Mohan Rao, Addl.CGSC, CAT, Hyderabad.
6. One spare copy.

SSS/vsn