

30/100

5

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No...90/96.....

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SECTION OFFICER (Judl.)

Brabiz
25.11.8

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

DA No.

90/96

MP No.

(DA)

RA No.

(DA)

CP No.

(DA)

Dr. P.K. Ratha

APPLICANT(S)

VERSUS

Union of India & Ors.

RESPONDENT(S)

Mr. G.K. Bhattacharyya, Mr. G.N. Das Advocate for the applicant.
Mr. B. Chakrabarty, Mr. P. Santra,

Mr. A.K. Choudhury, Addl. B.S.C. Advocate for the Respondents.

Office Notes

Court's Orders

Fee application is in
form and within time
E. F. of Rs. 50/-

Deposited vide

IPO/BD No. 346/26

Dated 24.5.96

12/7/96

By Registrar

↓

10-6-96

Notices issued to the
respondents vide No. 1546
dt. 20.6.96.

of statement has not been given.

26/7

2-8-96

Memo of appearance

submitted by Mr. A.K. Choudhury,
Addl. C.G.S.C.

13.6.96

(1)

Mr G.K. Bhattacharyya for the
applicant. Mr A.K. Choudhury, Addl.
C.G.S.C., for the respondents.

Heard Mr G.K. Bhattacharyya
for admission. The application is admitted.
Issue notice on the respondents by registered
post. Written statement within six weeks.

List on 30.7.96 for written state-
ment and further orders.

Member(A)

Member(J)

nkm

30-7-96

(2)

Learned counsel Mr. G.N. Das
for the applicant. None for the
respondents. Written statement
has not been submitted.

List for written statement
and further orders on 22-8-96.

Member

pg.

2
O.A. 90/96

22.8.96

Mr A.K.Choudhury, Addl.C.G.S.C prays for four weeks time to file counter.

List for counter and further orders on 20.9.96.

Member

pg

20-9-96

Learned Addl.C.G.S.C. Mr.A.K.Choudhury for the respondents seeks 4 weeks to submit written statement.

List for written statement and further order on 11-10-96.

Member

lm

11.10.96

None present.

Service report awaited. Written statement has not been submitted.

List for written statement and further order on 20.11.96.

Member

trd

20.11.96

Written statement has been submitted by the respondent Nos 1,2 and 3. Copy of the same be served on the counsel of the applicant.

List for hearing on 19.12.1996.

Member

trd

1) Service Reports are still awaited.
2) W/Statement has not been filed.

19/9

1) Service Reports are still awaited.
2) W/Statement has not been filed.

10/10

18-10-96
W/S filed in
tender 1-3 at pg. 33-44.

Service Reports are still
awaited.

11/11

~~the copy of the
written statement
should be served
on the counsel of the applicant.~~

25/11

trd
m/
20/11

14.5.97

The learned counsel for the parties submit that the case is otherwise ready for hearing. List it for hearing on 14.7.97.

Member

Vice-Chairman

nkm

19-8-97

① Written Statement has been filed.

② Service report are still awaited.

En

14.7.97

Due to ref, the court is suspended after 12 noon. Adjourn to 26.8.97.

By order

26.8.97

Leftover list on 17-12-97.

By order

17-12-97

Case is ready for hearing.

Let this case be listed for hearing on 9-3-98.

Member

Vice-Chairman

lm

19/12

9-3-98

Case is ready for hearing.

List for hearing on 17-6-98.

Member

Vice-Chairman

lm

11/3

11-3-98

On behalf of Mookdo Choudhary, mention has been made for adjournment as Mookdo Choudhary, Addl. C.G.S.C. is in leave.

Let this case be listed for hearing.

O.A. 90/96

19-6-98

On behalf of Mr. A.K. Choudhury,

(12)

learned Adl. C.G.S.C. mention has been made for adjournment as Mr. Choudhury is in bereavement.

Let this case be listed for hearing on 20-7-98.

Member

Vice-Chairman

lm

28
22/6

W/S has been filed. 20.7.98 (13)
28
5/8

On the prayer of Mr. G.K. Bhattacharya, learned counsel for the applicant the case is adjourned to 6.8.98.

Member

Vice-Chairman

pg

28
21/7

W/S has been filed. 6.8.98 14
28
25/8

There is no representation. However, for the ends of justice the case is adjourned to 26.8.98 for hearing.

Member

Vice-Chairman

pg

28
21/8

26.8.98 passover in the day
7/8

24.9.98

Copies of the Judgment have been sent to the D/Sec. for issuing the same to the parties through Regd. mail app.

27.8.98

Heard the learned counsel for the parties. Hearing concluded. Judgment delivered in open court, kept in separate sheets. The application is disposed of. No order as to costs.

Member

Vice-Chairman

nkm

U.P.
referred vide
D. Nos. 2966 to
2968 D.A. 12.10.98.
H.P.

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI-5.

O.A.No. 90 of 1996

DATE OF DECISION.....27.8.1998

Shri P.K. Ratha

(PETITIONER(S))

Mr G.K. Bhattacharyya and Mr G.N. Das

ADVOCATE FOR THE
PETITIONER(S)

VERSUS

Union of India and others

RESPONDENT(S)

Mr A.K. Choudhury, Addl. C.G.S.C.

THE HON'BLE MR JUSTICE D.N. BARUAH, VICE-CHAIRMAN

THE HON'BLE MR G.L. SANGLYINE, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the Judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble Vice-Chairman.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.90 of 1996

Date of decision: This the 27th day of August 1998

The Hon'ble Mr Justice D.N. Baruah, Vice-Chairman

The Hon'ble Mr G.L. Sanglyine, Administrative Member

Shri P.K. Ratha,
Assistant Aerodrome Officer,
Aviation Research Centre Doomdoooma,
District-Tinsukia, Assam.Applicant.

By Advocates Mr. G.K.Bhattacharyya, and Mr. G.N.Das.

-versus-

- i. Union of India,
Represented by the Cabinet Secretaries,
Department of Cabinet Affairs,
New Delhi.
- ii. Director,
Aviation Research Centre,
Cabinet Secretariat, East Block-V,
R.K.Puram,
New Delhi-110066.
- iii. Deputy Director (Administration),
Aviation Research Centre, Doomdoooma,
P.O. Sukrating, TinsukiaRespondents.

By Advocate Mr. A.K.Choudhury, Addl. C.G.S.C.

.....

O R D E R

BARUAH. J. (V.C.).

The applicant has filed this application seeking certain directions to the respondents from this Tribunal.

2. Facts for the purpose of disposal of this application are :

The applicant joined Aviation Research Centre as an Aerodrome Operator Grade I in 1971. In 1988 he was promoted to the rank of Assistant Aerodrome Officer after putting in more than seventeen years of service.



3. The Aviation Research Centre is a department directly under the control of the Cabinet Secretary- 1st respondent. This Research Centre has two aerodromes under it and these aerodromes are governed by the Air Craft Rules 1937. All provisions of Rules are the same as that of the National Airport Authority of India. By Annexure III memorandum dated 1.11.1989 the Aviation Research Centre (Air Wing Staff) Recruitment Rules, 1977 was made by the 1st respondent in exercise of powers conferred by the proviso to Rule 309 of the Constitution to regulate the method of recruitment to the post of Air Wing of the Aviation Research Centre. At that time there were three posts of Assistant Aerodrome Officers and one post of Aerodrome Officer. By order dated 14.8.1995 the 1st respondent surrendered the post of Aerodrome Officer without any reason. This was the only post where the applicant could be promoted and the applicant was legitimately expecting promotion to the said post. The surrendering of the said post has deprived the applicant in getting the promotion. According to the applicant the abolition of the post was unjust, unfair and unreasonable. Being aggrieved, the applicant submitted Annexure IX representation dated 25.9.1995 and in response to the said representation the impugned Annexure X order dated 12.12.1995 was passed. By the said order the applicant was informed that by letter dated 29.11.1995, the Aviation Research Centre had intimated that the Recruitment Rules made in 1990 did not provide any promotional avenue of Assistant Aerodrome Officer to the post of ATC (Admn). It was also stated in the said order that there was no post of Aerodrome Officer in the Aviation Research Centre. Hence the present application.



4. In due course the respondents have entered appearance and filed written statement. In para 1 of their written statement the respondents, among others, have stated as follows:

".....The only point which has been brought out by the applicant that there was a post of Aerodrome Officer in the ARC, which has been surrendered and another one post of ATC (Admn.) Officer has been created in 1986 as a result the applicant got no promotional avenues for the present and his request to promote him as ATC (Admn.) Officer has also not been acceded to by the Department. However, the applicant is not aware of the fact that the Department has already examined the entire structure of the Air Traffic Control Unit of ARC and have projected suitable upgradation proposal before the Higher authorities where one post of Aerodrome Officer in the pay scale of Rs.2200-4000 has been recommended for creation besides several others....."

Again, in para 4 the said respondents have also stated that:

".....however, the Deptt. after making suitable examination has projected for creation of post like Aerodrome Officer, Technical Officer in the latest cadre so that the applicant and other ATOs etc. can get promotion."

5. We have heard Mr G.K. Bhattacharyya, learned counsel for the applicant and Mr A.K. Choudhury, learned Addl. C.G.S.C. Mr Bhattacharyya submits that the whole approach of the respondents in surrendering the post was not only illegal, but unfair and unreasonable and this is evident from the statements made in the written statement as quoted above. If the post is not revived the applicant will be deprived of his legitimate expectation of getting promotion to the said post. He will not even be eligible for appointment to any higher post as no such post would be available. Mr A.K. Choudhury submits that efforts are being made for reintroduction of the post and


that.....


82

that has already been stated in the written statement. He further submits that the local office has already sent a proposal to the higher authority for creation of one post. The matter has not yet been finally disposed of. Mr Bhattacharyya submits that the facts of the present case is squarely covered by the decision of this Tribunal dated 24.4.1997 passed in Original Application No.231 of 1994. Mr Choudhury also admits that the facts of the present case are squarely covered by the previous case with the only difference that in the present case the post has been abolished whereas in the previous case the post was withdrawn. In our opinion it becomes the same in view of the fact that a person's right to be promoted is taken away. We feel that the said decision of this Tribunal passed in original application No.231/94 covers the present case.

6. Theredore, following the earlier decision of this Tribunal dated 24.4.1997, we dispose of this application with direction to the respondents to take steps for creation of the post as early as possible, at any rate within a period of three months from the date of receipt of this order.

7. The application is accordingly disposed of. No order as to costs.


(G. L. SANGHVI)
MEMBER (A)


(D. N. BARUAH)
VICE-CHAIRMAN

Filed by:
G. N. Das
Advocate
5/6/96

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:GAUHATI BENCH:
GUWAHATI.

O.A.No. 90 /96.

Shri P.K.Ratha ... Applicant.

-Versus-

Union of India and others.

... Respondents.

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15.

W) S-

Filed by :-

G. N. Das
Advocate

33-44

Recd. copy.
A. K. Choudhury
Advocate
5/6/96

12
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :GAUHATI BENCH :

GUWAHATI.

O.A. No. 90 /96.

Shri P.K. Ratha ... Applicant.

-Versus-

Union of India and others.

... Respondents.

1: PARTICULARS OF THE APPLICANTS:

- i) Shri P.K. Ratha .
- ii) Son of Late Jaladhar Ratha.
- iii) Aged about 47 years.
- iv) Assistant Aerodrome Officer ,
Aviation Research Centre Doomdooma ,
P.O. Sukreting ,District-Tinsukia,Assam.

2 : PARTICULARS OF THE RESPONDENTS:

- i) Union of India (Represented by the Cabinet Secretaries, Department of Cabinet Affairs, New Delhi.
- ii) Director, Aviation Research Centre ,
Cabinet Secretariat , East Block- V,
R.K. Puram, New Delhi-110066.
- iii) Deputy Director(Administration)
Aviation Research Centre, Doomdooma,
P.O. Sukrating, Tinsukia.

Contd...

Bill

3 . THE APPLICATION IS AGAINST THE FOLLOWING ORDERS:

- i) Letter No.1/34/AWD/95 -6757 dt.12.12.95 from the Commandar, Air Wing , Aviation Research Centre , Doondooma whereby the applicant had been informed that as per A.R.C. HQ letter No.ARC/AW/174/82 /5562 dt.29.11.95 it was intimated that Recruitment Rules made in 1990 did not provide any promotional avenue of Asstt. Aerodrome Officer to the post of Air Traffic Control (Administration) and that at present no post of Aerodrome Officer existed in the A.R.C.
- ii) Memorandum No.ARC/AW. 174/82-452 dt.5.2.96 whereby the applicant was informed that his request to make provisions in the ARC Recruitment Rules for promotion from Asstt. Aerodrome Officer to that of A.T.C. (Adm) Officer, had been examined and ~~that~~ acceded to by the competent authority .
- iii) Provision of the ARC (Air Wing Recruitment Rules) made in 1990 wherein no provision, whatsoever, was made ~~for~~ promotion of Asstt. Aerodrome Officer to higher rank.
- iv) Action of the authorities in altering the condition of service of the applicant to his disadvantage.

4 . The applicants declare that the subject matter of the orders are within the jurisdiction of this Tribunal.

contd...

Bill

5. The applicant declare that the application is within limitation prescribed under section 21 of the Administrative Tribunals Act, 1985.

6 . FACTS OF THE CASE :

1) That, the applicant initially joined the Aviation Research Centre (hereinafter referred to as ARC) as an Aerodrome Operator ,Grade-I on 8.9.71 and after putting in more than 17 years of service the applicant was promoted to the rank of Asstt.Aerodrome Officer in 1988 and since then he has been stagnant in the same post and the only scope for promotion has been blocked by the authorities and as such the applicant is approaching this Hon'ble Tribunal for relief.

2) That, the ARC is a department ~~directly~~ under the Control of the Cabinet Secretary i.e. Respondent No.1 . The ARC has two Aerodromes under it and in each Aerodrome, there is an Air Traffic Control to maintain safe and orderly flow of Air Traffic services . The Air Traffic Controllers handle Radio Tele-Communication to provide smooth and safe flying Operation and the Controllers follow the Rules and Regulation of Civil Aviation Department to have a uniform system of Controlling all over the country. The Aerodromes under the ARC are governed by the Air Craft Rules 1937 . The pay scales, structural pattern and nature of works of Air Traffic Control, ARC is the same with that of the National Airport Authority of India (NAAI).

contd...

Bill

The Controllers of ARC are trained in the Civil Aviation Training Centre Allahbad , for professional efficiency. Ninety percent(90%) of the staff of Air Traffic Control, ARC , are Civillians and directly appointed by the A.R.C. and the ATC unit in the ARC has been set-up in the pattern of DGCA, now NAAI and the pay and allowance of the ATC unit are regulated by that of ATC unit of the NAAI .

Copies of the order dt.14.12.70, Memorandum dt. 12.4.89 and 1.11.89 to support the above contentions are annexed herewith and marked as Annexure-I,II, and III. respectively .

3) That, the Respondent No.1 had , in exercise of powers conferred by the proviso to Rule 309 of the Constitution of India , made the ARC(Air Wing Staff) Recruitment Rules, 1977 to regulate the method of recruitment to the post of Air Wing of the ARC. At that point of time, there were 3 posts of Asstt. Aerodrome Officers and one post of Aerodrome Officer. Under the said Rules an Asstt. Aerodrome Officer became elligible for being promoted to the post of Aerodrome Officer on completion of 3 years of service in that grade and the applicant, in view of his seniority, would be elligible to be promoted to the post of Aerodrome Officer which was the only other promotional post .

Surprisingly , the Respondent No.1 vide letter Nb.A- 11013/63/81/DO-I dt.14.8.95, surrendered the only post of Aerodrome Officer , thereby blocking the only promotional avenue of the Asstt. Aerodrome Officer .

contd..

Full

However , as there was operational requirement of a senior Controller apart from the Asstt. Aerodrome Officer , the Respondent No.1 , vide letter No.17/2/85-EA- I dt. 26.9.86, created a post of ATC (Admn) Officer (Senior Air Traffic Controller) and the Asstt. Aerodrome Officers, including the applicant, could easily be promoted to the said post as the only other promotional post of Aerodrome Officer had been surrendered. The applicant had made enquiries regarding the said post and about the Charter of Duties and Conditions of appointment but he was given vogue replies and the post was not being filled -up . As such the applicant, on 11.1.93, submitted a representations to the Deputy Director , Charbatia, where he was posted to and on 20.4.93 to the Respondent No.2, praying that he be furnished with the recruitment conditions and charter of duties of the ATC (Admn) Officer. The Respondents have circulated the Charter of duties of the Senior Traffic Controller in April, 1993 but till date the applicant has not been furnished with a copy of the Rules inspite of his earlier requests and prayer made on 6.5.96.

Copies of the letter dt.11.1.93 , 20.4.93 , 6.5.96 and charter of duties of senior Traffic Controller and Asstt. Aerodrome Officer are annexed herewith and marked as Annexure-IV, V, VI, VII and VIII respectively .

- 4) That, the applicant begs to state that from the charter of duties it will be apparent that Asstt. Aerodrome Officer can easily hold the post of Senior Traffic Controller

Contd..

Sill

and since it was the only promotional post left, the applicant was anticipating that he would be so promoted. Surprisingly, during March, 1993, the aforesaid post of ATC (Adm) Officer ~~§~~ was filled-up by bringing an Officer from the Indian Air Force on deputation for 3 years ^{and} the period of deputation was due to be completed on 15.3.96. By then the applicant had completed 7 years of service as Asstt. Aerodrome Officer and as such he, on 25.9.95, submitted a representation to the Respondent No.2 through proper channel stating the above facts with the prayer not to fill-up the said post again by deputation from the Indian Air Force and to consider his case for promotion to the said post ^{which} ~~with~~ would fall vacant on 16.3.96. In response to the said representation the petitioner received the impugned order dt.12.12.95, whereby the applicant was informed that the Asstt. Aerodrome Officer, Head Quarter, vide their letter No.ARC/AW/174/82-5562 dt.29.11.95, had intimated that the Recruitment Rules made in 1990 did not provide any promotional avenue of Asstt. Aerodrome Officer for the post of ATC (Adm) Officer and that at present no post of Aerodrome Officer existed in the ARC.

Copies of representation dt.25.9.95 and ^{order} dt.12.12.95 are annexed herewith and marked as Annexure- IX and X respectively.

5) That the applicant begs to state that the only other post to which the applicant could be promoted to was that of Aerodrome Officer and since the same was

contd...

Bill

surrendered the authorities ought to have made some provisions for promoting the applicant to the newly created post, more so when officers similarly situated in the NAAI was eligible for further promotion. The applicant, on 15.12.95 submitted an appeal to the Respondent No.2 through proper channel, stating the above facts and as to ~~have~~ a great injustice was done to him in the matter of his promotion and prayed that some provisions be made in the

Recruitment Rules for promoting the Asstt. Aerodrome Officer to the post of ATC (Admn) Officer, as the nature of duties of both the rank was the same. The applicant has now received the impugned order No.ARC/ AW.174/82-452 dt.5.2.96, whereby the applicant has been simply informed that his prayer for making provision for promotion of Asstt. Aerodrome Officer in the Recruitment Rules to that of ATC (Admn.) Officer had been examined and not acceded to by the competent authorities.

Copies of the *Appeal* dt.15.12.95 and order dated 5.2.96 are annexed herewith and marked as Annexure- XI and XII respectively.

6) That, the applicant begs to state, as stated earlier, ^{that} the ATC unit of ARC is a purely civil Organisation and the earlier Rules provided for promotion of the Staff to the post of Aerodrome Officer. The authorities by surrendering the post and creating a new post without making any provisions for promoting the existing staff and

contd...

Bill

bringing officers from the Indian Air Force is highly unjustified and unwarranted as eligible and experienced officers in the Department itself are available. The aforesaid post is lying vacant at present and unless some interim orders are passed protecting the applicant's interest, the applicant will suffer irreparable loss and his future career will be in jeopardy.

7. DETAILS OF REMEDY EXHAUSTED:

The applicant had submitted an appeal on 15.12.95 and the same was rejected vide order dt.5.2.96 (Annexure-XII).

8. That the applicant further declared that they has not previously filed any application writ petition or suit regarding the matter in respect of which this application has been made, before any Court of law or any other authority or any other Bench of the Hon'ble Tribunal and no such application/ writ application or suit is pending.

9. RELIEFS SOUGHT AND GROUNDS:-

i) For that the impugned action of the authorities in blocking the promotional prospects of the applicant by surrendering the only promotional post of Aerodrome Officer and not making any provision for promotion to the newly created post of ATC(Admn) Officer in illegal arbitrary and violative of the principle of Natural Justice and as such the impugned action and orders are liable to be set aside.

contd...

Bill

ii) For that, the impugned action of the authorities in not making any provision for promotion to the newly created post in the Recruitment Rules when earlier there was such a provision, amounts to altering the condition of service of the applicant to his dis-advantage and as such the impugned action is bad in law and to be set aside.

iii) For that the action of the authorities in not making any provision for promotion to the newly created post of ATC (Admn) Officer thereby completely closing the promotional avenue of the applicant and other similarly situated amounts to malice in law and as such the impugned action and orders are bad in law and liable to be set aside.

iv) For that the Rules, pay scale of the employees, structural pattern and nature of work of the Air Traffic Control of the ARC is the same like that of NAAI and for all purposes it is a Civil Aerodrome and there can be no justification, whatsoever, in bringing-in persons from the Indian Air Force on deputation, thereby depriving the Staff of ARC from promotion, more so when the officer similarly situated in the NAAI are eligible for further promotion to several grades and as such the impugned action of the authorities is bad in law and liable to be set aside.

v) For that for all other purposes the authorities, while giving benefits to the ARC staff follow the benefits given to the NAAI employees and by closing the promotional avenues at the level of Asstt. Aerodrome Officer, the

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employees of the ARC have been discriminated against and as such the impugned order and action are bad in law and liable to be set aside.

vi) For that the action of the authorities in not granting promotion to the applicant amounts to a penalty of withholding of promotion and as the procedure for imposing the penalties have not been followed, the impugned orders and action are bad in law and liable to be set aside.

vii) For that, the Hon'ble Supreme Court in various decisions have held that reasonable promotional opportunities should be available in every wing of Public Service to generate efficiency in service and to foster appropriate attitude to grow for achieving excellence in service and that absence of promotional prospects the service is bound to degenerate and that stagnation kills the desire to serve properly. In the instant case the applicant was earlier eligible to be considered for promotion to the post of Aerodrome Officer and the authorities, by surrendering the said post and not making any provisions for promotions to the newly created post, has completely gone against the said principles and as such this is a fit case where this Hon'ble Tribunal will exercise jurisdiction and grant relief to the applicant.

Viii) For that the Respondent No.2, while rejecting the prayer of the applicant by his order dt.5.2.96

contd...

Bill

(Annexur -XII) did not pass any speaking order and did not record any reasons as to why such a drastic action was taken and the applicant is not aware as to what consideration were taken by the authorities and as such the appellate order is bad in law and is liable to be set aside.

ix) For that in any view of the matter, the impugned action of the authorities in altering the conditions of service of the applicant and completely blocking the avenues for promotion by not making any provisions for promotion in the Rules is illegal, arbitrary and liable to be set aside.

It is, therefore, prayed that your Lordships would be pleased to admit this application, call for the records of the case, ask the opposite party to show cause as to why provisions should not be made in the Rules for promoting Asstt. Aerodrome Officer to the post of ATC (Admn) Officer in the Recruitment Rules and as to why the applicant should not be promoted to the said post of ATC (Admn) Officer and after perusing the causes shown, if any, and hearing the parties allow the application by passing the aforesaid direction and/or pass any other order/orders as your Lordships deem fit and proper.

10. INTERIM ORDER :

It is further prayed that pending disposal of the application, your Lordships would be pleased to direct the authorities not to fill-up the vacant post of ATC (Admn) Officer in the ARC by deputation.

11. Does not arise.

12. Postal order No. 09-348126

dt.. 24-5-76

issued at the post office at Guwahati.

Sill

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VERIFICATION

I, Shri P.K. Ratha , son of Late Jaladhar Ratha, aged about 47 years, at present serving as Assistant Aerodrome Officer , Aviation Research Centre , Doomdooa , P.O. Sukroting , District - Tinsukia , do hereby verify that the contents of paragraphs ... 1, 2, 3, 4, 5 and true to my knowledge and those made in paragraphs ... 6 are believed to be true on legal advice and that I have not suppressed any material fact.

Place: Guwahati
Date: 5/6/96

Prasana Kumar Ratha
Asst. Aerodrome Officer
ARC, Doomdooa
... (PRA SANA KUMAR RATHA)

No.21-A/7/70,

GOVERNMENT OF INDIA
MINISTRY OF TOURISM AND CIVIL AVIATION
NEW DELHI- 1 , the 14th Dec. 1970.

ORDER

In pursuance of Sub-Rule (2) of Rule 3 of Aircraft Rules, 1937 the Central Government hereby authorise the Deputy Director (Adm) Aviation Research Centre, Charbalia (Orissa) to exercise the Powers under Rule 78 of the said Rules to determine the extent and the conditions subject to which the Government aerodrome at Charbalia and and Doomdooma shall be open to public use.

Sd/-

(S.N.Kaul),

Deputy Secretary to the
Government of India.

Dated 5th Feb/1971.

Nb.37884

Copy forwarded to all Units ARC, Charbalia for
information and necessary action .

Sd/-

(B.S.Sastry),

for Deputy Director (Admn).

To

Asstt. Aerodrome , Orissa,

*Attested
By Secretary
Admn*

....

Annexure-II.

15

Nb.ARC/Coord/110/86-1662.
Aviation Research Centre,
(Directorate General of Security),
Cabinet Secretariat,
East Block V.R.K.Puram,
New Delhi-110066.

Dated the 12.4.89.

MEMORANDUM.

Sub :- Grant of special pay of Assistant Aerodrome
Officer of ARC.

Please refer to your letter Nb.1/39/AW.D/88-1600
dated 23.12.88 and Nb.1/39/AWD/89-1717 dated 24.1.89 for-
warding the representation of Sri P.K. Rath, Asstt.
Aerodrome Officer for grant of special pay alongwith the
revised pay scales.

2. The case of grant of special pay to Asstt.Aerodrome
Officer has been examined keeping all the aspects in view
and it has been found that since the Assistant Aerodrome
Officer of DGCA have not been granted any special pay
alongwith the new pay scales with effect from 1.1.86 and
as we are following the same pattern of scale as are
obtainable in DGCA, there is no appropriate case to move the
Cabinet Sectt. on the subject.

3. The post of ATO in the ARC is a part of Technical
Cadre and an ATO posted against these posts on the analogy
of similar posts in other sister organisation which enjoy
the special pay, has been granted special pay accordingly.

4. This may be brought to the notice of the individual
concerned.

Sd/-
Deputy Director(M).

Copy to :- Sri P.K. Rath, AAO, ATC, ARC, Doomdoooma for
information.

Sd/-Illegible,
(NCS Nair)ATO
Admin Officer,ARC,Airwing,
Doom Dooma.

*Attested
Authenticity
Admitted*

Nb.ARC/Coord/88
Aviation Research Centre,
(Directorate General of Security),
Cabinet Secretariat
East Block- V.R.K. Puram,
New Delhi-110066.

Dated the 1.11.89.

Subject :- Setting up of Departmental Anomalies committee to settle the anomalies arising out of the implementation of 4th pay commission recommendations revision of pay scales of ATC staff.

Please refer to para-II of your letter Nb.ARC/1/2/1/Accts(2)-11927 dt.28.11.88 forwarding representations of ATC staff for revision of pay scales.

2. The ATC unit in ARC Directorate has been set up on the pattern of the ATC unit in the DGCA now NNAI and the pay and allowances of ATC staff are regulated on the anomaly of ATC unit in NNAI. Any change in the scale of pay of ATC staff in our set-up. Comparision of scales of pay of ATC staff with that of JTO-I and II in Airwing is not acceptable as the ATC posts and Airwing posts exists on separate cadeters with separate duties and responsibilities .

3. Recently the case of revision of scale of pay of the following ATC posts was examined at ARC Hq.rs as their counterparts in NAAI are on higher scales after the 4th pay Commissions Recommendations.

- 1.Aerodrome Operator-Gr-I.
- 2.Radio Technician.
- 3.Radio Operator.
- 4.Radio Mistry.
- 5.Traffic hand.

contd...

*Attended
Bachchan
to net*

During the examination, it was felt necessary to compare the qualification and duties prescribed for the these posts in NAAI for which they were given higher scales. Accordingly we have requested NAAI, New Delhi on 28.9.89 to intimate us the qualifications and duties prescribed for these posts in NAAI to make a comparative study with ours and then take further action as deemed fit.

4. As regards the revision of pay scale of Sr.Observers in ARC it is intimated that a self contained not in the light of CAT judgement issued in favour of Sr-Observers in IMD was sent to Cab.Sectt. on 4.7.89. The information is not available in our Hqrs. In order to compy with the querries of Cab. Sectt. We had requested Director(Admn.) IMD on 13.9.89 to furnish the required information. These informations been received now and querries of Cab. Sectt. are being replied.

5. The individuals may please be informed accordingly.

Sd/-
(R.K.Mahajan).
Deputy Director(M).

To

Assistant Operations Manager,
ARC, Charbatia.

Copy to :-1.DD(AW), ARC, HQRS, New Delhi.
2.DD(A), ARC, Charbatia.

Sd/-
(R.K.Mahajan),
Deputy Director(M).

...

Handwritten signature/initials

To
The Deputy Director (Admn),
A.R.C., Charbatia.

(Through proper channel)

Sub: Request For Recruitment Rules and Charter Of Duties
of A.T.C. Admn. Officer.

Sir,

One Aerodrome Officer (Class-I) post is abolished from A.T.C. Charbatia vide Ministry of Finance letter No.714/DFA(S)/85 dated 2.8.85. This was possible to do so because of shifting of airwing to Delhi.

One ATC/Admn Officer (Class-I) post was created for Delhi, Palam vide Cabinet Secretariate Order No.17/2/85-E.A.-1 dated 26.9.86 and the same post is transferred to A.T.C. Charbatia vide Cab. Sectt letter No. A-11011/26/91-DO-1 dated 5.3.92.

ATC Admn. Officer post is vacant at A.T.C. Charbatia since the date of transfer from Palam, New Delhi.

The Charter of Duties and Recruitment Rule of A.T.C. Admn. Officer is not yet circulated. The terms and conditions of appointment is also not known.

A.T.C. staff of A.R.C. are civilian and binding to the A.R.C., Airwing staff Recruitment Rules. The A.T.C. Admn. Officer post should be filled up from a Civilian qualified A.T.C. Officer as per the A.R.C. Airwing staff Recruitment Rules.

It is requested to kindly circulate the terms and conditions of appointment and Charter of Duties of A.T.C. Admn. Officer.

Thanking you, Sir,

Date 11.1.93.

Sd/-Illegible.
6.5.96.

Yours faithfully,

Sd/- P.K. Ratha.
Assistant Aerodrome Officer,
A.T.C. Charbatia.

*Checked
Circularly
Admn.*

19.

Annexure- V.

To

The Director , ARC,
ARC Headquarters,
New Delhi.

(Through proper channel)

Sub:- Request for Recruitment Rules and Charter of Duties
of ATC (Admn) Officer.

Ref:- My application to the Dy, Director (Admn), ARC
Charbatia dated 11.01.1993 (copy enclosed) .

Sir,

Respectfully I beg to state that I have not yet
received Recruitment Rules and Charter of Duties of A.T.C.
Admn. Officer.

I may kindly be intimated the terms and conditions
on which the post of A.T.C. Admn. Officer can be filled-up
by the Civilian Officer of A.T.C., A.R.C., on promotion.

Thanking you Sir,

Dated 20th April, 1993.

Yours faithfully,

Sd/- Illigible,

(P.K. Ratha).

Assistant Aerodrome Officer,
A.T.C., Charbatia.

...

*Attested
by
Admn. Officer*

20.

Annexure-VI.

To
The Director: ARC,
ARC Headquarters,
New Delhi.

(Through proper channel)

Sub :- Prayer for furnishing a copy of Recruitment
Rules made in 1990.

Sir,

I am highly aggrieved by the action of the authority in not making any provision in the Recruitment Rules for promotion of Assistant Aerodrome Officer to the post of A.T.C. Admn. Officer and I have submitted several representations in this respect. I have not received a copy of 1990 Rules though I had prayed for the same to the Deputy Director (Admn). ARC Charbatia on 11.01.1993 and to the Director: ARC, New Delhi on 20.04.1993 (copy enclosed).

I therefore request you to kindly furnish me with a copy of the Rules so as to enable me to persue my remedies.

Thanking you Sir,

Dated 6.5.96.

Yours faithfully,

Sd/- Illegible

(P.K. Ratha)

Assistant Aerodrome Officer,

A.R.C., Doom Dooma.

Handwritten:
Hatched
As per
Hatched

,...

21.

Annexure-VII.

AVIATION RESEARCH CENTRE
DIRECTORATE GENERAL OF SECURITY
(CABINET SECRETARIAT)

New Delhi -66 : Date : April ,93.

Subject:- Charter of Duties of SATCO (Senior Air Traffic Control Officer (ATC/ADM (Controller) Officer).

He will be:-

- a) Responsible to the Cdr/Coo Base for smooth and safe flying operations to be conducted from ARC Base at CBT.
- b) Responsible to bring-up the professional capabilities of all ATC personnel engaged in controlling duties both at Charbatia and Doom Dooma, For this he will make plans, for training of such personnel within the ARC or at established Training establishments of N.A.A. and forward the same to ARC Hq. through Commander, Airwing and Dy. Dir. (Admn.) action.
- c) Responsible for maintaining proper liasion with Civil Aviation, Air Force Establishments (SU & MLU'S) and India Met Deptt. for proper clearance, briefing etc. of ARC flights.
- d) He will remain in constant with local, CPWD and other concerned staff for proper maintenance of Runway, Allied services like lighting, Fire Services , Medical Coverage and Land & Air Rescue Organisation and bring to the notice of Dyl Dir. (Admn.). Though Commander Airwing all relevant matters in respect of the above mentioned matters for action as desired by Dy. Dir. (Admn.).

Contd...

*Submitted
Reviewed by
S. K. S. S. S.*

- a) As O I/C ATC Comple, responsible to CDR, Base for smooth and efficient functioning of the Met Section, ATC (Communications) and ATC (Tech.) Sections to ensure serviceability and availability of all communications, Eqpt. Radio/Nav. Eqpt. Mat Data & other Data for smooth and safe conduct of flying operations.
2. At ARC Hq. the ATC Operations will be co-ordinated by CSO, ARC, Airwing and Admn. matters will be decided by Dy. DIR. (Admn), Airwing. SATCO will take-up respective matters through CDR accordingly.

It has the approval of Director, ARC.

Sd/- (G.C. Tripathi)

Dy. Director (A) AW

No. ARC/AW.6/93 .

Copy to:-

1. Dy. Director (Admn.), Charbatia.
2. Cdr. , Charbatia.
3. C.S.O.

As per duty

DUTIES OF ASSTT. AERODROME OFFICER.

1. He shall be responsible to Air Traffic Control Officer for the overall efficiency of Air Traffic Control services.
2. He is the officer I/C Air Traffic Control Tower and shall exercise effective control over the personnel of the Air Traffic Control Section.
3. He shall advise the operating authorities on all matters connected with the provision of Air Traffic Control services.
4. He shall ensure care and maintenance of all Air Traffic Controls equipments necessary for efficient functioning of Air Traffic Control Tower.
5. He shall ensure supervision of all personnel employed in the Tower section and ensure that they are fully conversant with their duties.
6. He shall maintain efficient liaison with various sections of ARC for smooth running of Tower Air Traffic Control services.
7. He shall ensure that runway surface inspection is carried out prior to the Air Craft operation.
8. He shall conduct Air crew briefing as and when required .
9. He shall maintain close liaison with Met Section regarding weather conditions which are likely to occur and likely to effect the Aircraft Operation.

*Mushd
Czechelinsky
Admally*

24.

10. He shall handle RT to Control Aircraft Operation and shall be responsible for safe, orderly and expeditious flow of Air Traffic Control.

11. He shall ensure that overdue, diversion emergency action and VIP movement action are taken as per the section orders issued from time to time.

12. He shall co-ordinate, monitor and notify all requirements pertaining to the Air Craft movement/operations at the Aerodrome.

13. He shall ensure that all Air Traffic Control information and procedures are updated.

14. He shall be familiar with the publications of ICAO and orders related to flying issued by the operating authorities from time to time.

15. He shall Consult Air Traffic Control (Admn) Officer on all matters relating to the aircraft emergencies/ unserviceability of equipments of facilities/bad weather operations.

16. He shall conduct on the job training for all Air Traffic Control personnel to attain proficiency in their trade.

17. He shall maintain a close liaison with CPWD(Elect) and fire service for the provision of airfield, Lighting facilities and crash fire fighting and rescue facilities.

18. He shall be responsible to demand, receive and maintain the stores pertaining to the Tower Section.

Contd..

Archived

25.

19. He shall be report unusual occurrences to Air Traffic Control (Admn) Officer immediately and initiate necessary action.

20. He shall look after the welfare of the section personnel and ensure high morale.

....

Prehensile

To
The Director, ARC,
ARC Headquarters,
New Delhi.

(Through proper channel)

Sub :- Request Promotion for the post of A.T.C. (Admn)
Officer.

Sir,

With due respect and humble submission I beg to lay before you the following few lines for your kind consideration and sympathetic order.

It is understood from reliable sources that S/L Balsubramaniam, A.T.C. (Admn) Officer will return back to his parent department (I.A.F.) on 15th March, 1996 on completion of 3 (Three) years deputation period.

I have completed 7 (Seven) years of service as Assistant Aerodrome Officer, As per the existing Airwing Recruitment Rules- 1977 an Asstt. Aerodrome Officer is eligible for promotion to the post of Aerodrome Officer on completion of 3 (Three) years service as Assistant Aerodrome Officer. There is no Recruitment Rules for A.T.C. (Admn) Officer but the nature of work of A.T.C. (Admn) Officer is same as Aerodrome Officer.

Therefore it is requested your honour not to bring A.T.C. (Admn) Officer on deputation from I.A.F. but to consider my case for the post of A.T.C. (Admn) Officer which will remain vacant from 16th March, 1996 at A.R.C., Charbatia.

Thanking you Sir,

Yours faithfully,

Sd/-

(P.K.Ratha), 25.9.95.

Assistant Aerodrome Officer,
A.T.C. ,ARC, Doom Dooma.

*Mishel
Balsubramaniam
Advocate*

No.1/34/AW.D/95-6757 .

ARC(Airwing)
Doomdoooma,
12.12.95.

Shri P.K.Ratha,
Asstt. Aerodrome Officer,
A.T.C. , ARC, Doomdoooma.

Sub :- Request for promotion to the post of A.T.C.
(Admn) Officer Sri P.K.Ratha.

Ref :- Your application dated 25.9.95.

ARC Hqrs. vide their letter No.ARC/AW.174/82-5562 dated 29.11.95 has intimated that RRS made in 1990 does not provide any promotional avenue of Asstt.Aerodrome Officer to the post of ATC(Admn) officer. Moreover at present no post of Aerodrome officer exists in ARC.

This is for your information.

Sd/-
(Joginder Singh)
JAO, Admn.Officer,
for Commander
Airwing ,Doomdoooma.

....

Handwritten signature:
Anshu
Bachchan
Soni

From : Shri P.K. Ratha,
Assistant Aerodrome Officer,
A.T.C., A.R.C., DOOM DOOMA.

Dated the 15th December, 1995.

To

The Director,
ARC Headquarters,
New Delhi.

(Through the proper channel) .

Sub :- Request for promotional avenue of Assistant
Aerodrome Officer for A.T.C. (Admn) Officer.

Sir,

With due respect and humble submission I beg to
lay before you the following few lines for your kind consi-
deration and sympathetic orders.

2. The post of Aerodrome Officer was surrendered
from A.T.C., Charbatia vide Cabinet Secretariat letter
No: A- 11013/63/81/DO-I dated 14.08.1985 and a post of
A.T.C. Admn. Officer is created for A.R.C. Headquarters, New
Delhi vide Cab. Sectt. letter No.17/2/85-EA.I dated 26.09.86.
The A.T.C. (Admn) Officer post is transfered to A.R.C.
Charbatia vide Cab. Sectt. letter No. A-11011/26/91-DO-I
dated 05.03.1992. Due to surrender of Aerodrome Officer post
and creation of A.T.C. (Admn) Officer post, an Assistant
Aerodrome Officer is deprived of from promotional avenue
where as the nature of duties of Asstt. Aerodrome Officer,
Aerodrome Officer and A.T.C. (Admn) Officer are same.

Contd..

*Shri P.K. Ratha
Asstt. Aerodrome Officer
DOOM DOOMA*

3. A.T.C. (Admn) Officer is a senior Air Traffic Controlling Officer. His Primary duty is to provide safe and orderly flow of Air Traffic Services. He is the senior most officer of A.T.C. Tower section. Asstt. Aerodrome Officer is also an air traffic controlling officer who is directly responsible to the A.T.C. (Admn) Officer for the smooth functioning of the section and to provide safe and orderly flow of Air Traffic Services.

4. With regard to A.R.C. Airwing Recruitment 1977, an Assistant Aerodrome Officer is eligible for promotion to the post of Aerodrome Officer on completion of 3 years service in the grade. The post of Aerodrome Officer does not exist in ARC except ATC (Admn) Officer. With regard to ARC Hdqrs. letter No. ARC/AW-174/82-5562 dated 29.11.95 Recruitment Rules made in 1990 does not provide any promotional avenue of Asstt. Aerodrome Officer to the post of A.T.C. (Admn) Officer.

5. Air Traffic Control in A.R.C. is a Civil department. More than 90% officials are civilian and appointed directly in A.R.C. A civilian Officer of A.R.C. should get a chance for promotion to the post of A.T.C. (Admn) Officer. It will not be out of place to bring to your kind notice that an equal rank officer of Asstt. Aerodrome Officer in A.R.C. such as senior Field Officer, Asstt. Technical Officer section Officer are being promoted to the post of Assistant Director directly as per the provisions of their Recruitment Rules on completion of minimum 8 years of service in the grade.

contd...

Asstt. Aerodrome Officer

In civil Aviation an Assistant Aerodrome Officer is being promoted to the post of Aerodrome Officer, Sr. Aerodrome Officer Controller of Aerodrome etc. on seniority. In Air Force a Controller gets his promotion from pilot Officer to higher rank as per their service conditions.

PRAYER

A provision may kindly be made in the A.R.C. Airwing Recruitment Rules for promotion of Assistant Aerodrome Officer to the post of A.T.C. (Admn) Officer on completion of 8 years service in the grade as the nature of duties of both the ranks are same.

Yours faithfully,

Sd/- 15.12.95.
(.P.K.Ratha).

Assistant Aerodrome Officer.

...

Chakraborty

Nb.ARC/AW.174/82-452.
Aviation Research Centre,
Dte , General of Security
Cabinet Secretariat
East Block- V, R.K. Puram .
New Delhi- 110066.

Dated: 5 Feb' 96.

MEMORANDUM

Subject:- Application of Shri P.K. Ratha, Asstt. Aerodrome Officer for promotional avenue to the post of ATC (Admn) Officer.

Reference is made to Memo No.109/ESTT/DDM/95-359 dated 6.1.96 forwarding the application of Shri P.K. Ratha, AAO on the subject mentioned above.

2. In this connection it is intimated that the request of Shri Ratha, AAO to make provision in the ARC, Airwing Recruitment Rules for promotion of AAO to the post of ATC (Admn) Officer has been examined and not acceded to by the competent authority.

3. The Officer may please be intimated suitably.

To
Asstt. Director (Admn.)
ARC, Doom Dooma.

Sd/-
(N.K. Chatterjee)
Asstt. Director (B) .

No. 109/ESTT/DDM/95-304
O/O the Deputy Director(A)
Aviation Research Centre,
Government of India,
P.O.- Doom Dooma-786151
Dist.- Tinsukia (ASSAM)
Dt.23.2.96.

contd...

Handwritten:
Checked
Reviewed
Approved

Copy forwarded to Shri P.K. Ratha, AAO, (Through) the
Commander Airwing, ARC Doom Dooma, for information with
reference to his application dt.15.12.95 & our Memo of even
Nb.359 dt.6.1.96 .

Sd/-

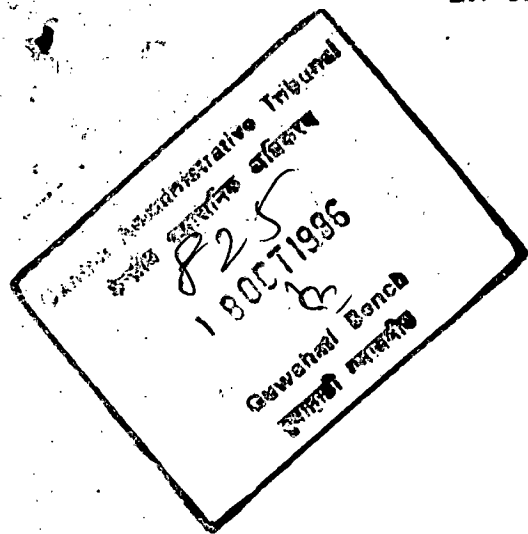
(R.N.Chakraborty) 23.2.96.

Section Officer.

....

R.N.Chakraborty

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH



O.A.NO.90 of 1996

Sri P.K.Ratha

-versus-

Union of India & Ors.

-And-

In the matter of :

Written statement on behalf of
Respondent Nos.1,2 and 3.

I, R.K.Mahajan, Deputy Director (Admn.), Aviation Research Centre, Government of India Doom Dooma, do hereby solemnly affirm and state as follows :

1. That I am the Deputy Director (Admn.) in the Office of the Aviation Research Centre, Doom Dooma and acquainted with the facts and circumstances of the case. I have gone through a copy of the Application and have understood the contents thereof. Save and except whatever is specifically admitted in this written statement the other contentions and statements in the application may be deemed to have been denied and am competent and authorised to file this written statement on behalf of the Respondent Nos.1,2,3 and 4.

Before I make parawise comments, a background note of the case is incorporated in this Written

Filed by
Amr K. Choudhary 44
Addl. Control Govt.
Standing Counsel.
18.10.96

2

Statement and this will supplement to written statement,:

Background note on the case

1. That the respondents beg to state the background of the case as follows :

That the applicant joined as Aerodrome Operator Gr.I (Direct Recruitment) w.e.f.8.9.71 in the department i.e. Aviation Research Centre (shortly termed as ARC) under Directorate General of Security, Cabinet Secretariat, New Delhi. The post of Aerodrome Operator Gr.I belongs to Group 'C' in the pay scale of Rs.1320-2040 as revised by 4th Pay Commission Report. Subsequently, the applicant was promoted as Assistant Aerodrome Officer in 1988. The post of Asstt. Aerodrome Officer is a Group 'B' (Gazetted) post in the scale of pay of Rs. 2000-3500. (The only point which has been brought out by the applicant that there was a post of Aerodrome Officer in the ARC, which has been surrendered and another one post of ATC (Admn.) Officer has been created in 1986 as a result the applicant got no promotional avenues for the present and his request to promote him as ATC (Admn.) Officer has also not been acceded to by the Department. However, the applicant is not aware of the fact that the Deptt. has already examined the entire structure of the Air Traffic Control Unit of ARC and have projected suitable upgradation proposal before the Higher authorities where one post of Aerodrome Officer in the pay scale of Rs. 2200-4000 has been recommended for creation besides several others.) The structure of Air Traffic Control system and the department is required to be narrated in brief to make a fact-finding case.

2. That Aviation Research Centre under DG(S) Cabinet Sectt. is one of the highly sensitive department of this nation, which started functioning since 1963 onwards. There are four Aerodromes from where aircrafts of various types used to fly for operational tasks. These four Aerodromes are - (i) Palam in Delhi (ii) Charbatia in Orissa (iii) Sarsawa in U.P. and (iv) Doom Dooma in Assam.

3. That along with all the Aerodromes, Air Traffic Control units are essential. Out of 4 Aerodromes mentioned above, the ATC units of Charbatia and Doom Dooma are manned by ARC and other two places i.e. Palam, is controlled by ATC unit of NAAI and at Sarsawa by ATC unit of Indian Air Force. Under ATC units, there are several branches e.g. (i) Control Tower (ii) Met (iii) Radio and (iv) Communication. The applicant belongs to Control Tower - whose main function to control in-coming and out-going aircrafts, their safety etc. Similarly Met is responsible for forecasting any weather problem.

Through Radio and Communications - signals/ messages are transmitted. All these branches are practically headed or supervised by an officer of the Gazetted rank like Asstt. Meteorologist etc. The pay scale of all these posts are same i.e. Rs. 2000-3500/- (Group B Gazetted). The post of Aerodrome Officer (Group 'A' - Gazetted) which was created initially was higher rank than that of the post of ATOs & Asstt. Aerodrome Officer. Aerodrome Officer can supervise the duties of Asstt. Aerodrome Officer, but cannot supervise the duties of ATOs & Asstt. Meteorologist as the nature of duties differ from one to another. To discriminate such

confusion, the said post of Aerodrome Officer was surrendered and another post was created namely ATC (Admn) Officer in the scale of pay of Rs. 3700-5000/- (Group 'A'), which is much higher than the post of Aerodrome Officer/Asstt. Aerodrome Officer, ATOs. Asstt. Meteorologist etc.

4. That however, the Deptt. after making suitable examination has projected for creation of post like Aerodrome Officer, Technical Officer in the latest cadre so that the applicant and other ATOs etc. can get promotion.

PARAWISE COMMENTS

5. That with regard to the contents made in paragraphs 1 & 2 of the application the respondents beg to state that they have no comments on them.

6. That with regard to the statement made in paragraph 6.3 of the application the respondents beg to state that the applicant submitted an application on 25.9.95 to his unit officer requesting for his promotion as ATC (Admn) Officer. It is worthwhile to mention here that the post of Asstt. Aerodrome Officer carries the scale of pay of Rs. 2000-3500 (Group 'B' Gazetted). The post of ATC (Admn.) Officer carries the pay scale of Rs. 3700-5000 (Group 'A' Gazetted). There lies five scale of pay in between these two posts, which are as follows :

- i. Rs. 2375-3500
- ii. Rs. 2200-4000
- iii. Rs. 3000-4500
- iv. Rs. 3000-5000
- v. Rs. 3200-4700

At present there exists no post of Aerodrome Officer.

The request of the applicant for promotion to the post

of ATC (Admn) Officer could not be acceded to by the authorities as promotion jumping so many scales of pay is not permissible. Besides, the RRs to the post of ATC (Admn) Officer do not provide promotional avenues from the feeder grade.

xxxxxxx

The applicant's request to make provision in the RRs for promotion from the post of Asstt. Aerodrome Officer to ATC (Admn) Officer could not be agreed upon due to the fact that there are several other posts in the same units like ATO (Commo), ATO (Radio), Meteorologist Asstt, whose pay scale are identical to the post of Asstt. Aerodrome Officer. Besides, there are five pay scales in between the pay scales of Asstt. Aerodrome Officer and ATC (Admn) Officer promotion jumping several scales of pay are not allowed in Govt.

The RRs to the post were amended in 1990 due to the reason that the lone post of Aerodrome Officer was surrendered in 1985 due various administrative problems. As no post of Aerodrome Officer was available, no provision of promotion to the RRs could be kept. The Deptt., however moved proposal to the higher authorities for creation of one post of Aerodrome Officer. Suitable amendments can be incorporated in the RRs only after the said post is sanctioned by the Govt.

The Deptt. has to take the interest of tasks assigned by the Govt. and general prospects of all staff and not the benefit of any individual staff. In the ATC unit, there are several Branches like communication, tower, met etc. For smooth functioning of the unit, the post like

ATC (Admn) Officer was felt absolutely necessary, who can make over all supervision besides tower where the applicant is posted.

7. That with regards to contents made in paragraphs 6.4 & 5 of the application the respondents beg to state that they have no comments.

8. That with regards to the contents made in paragraph 6.6 of the application the respondents beg to state that the averment of the applicant that he is stagnant is not fully correct. The applicant is in the scale of pay of Rs. 2000-60-2300-EB-75-3200-100-3500/-. He is drawing basic Rs. 2450/- p.m. only. The scale of the post is quite long. Besides, the scale is likely to be revised suitably by the 5th Pay Commission. The Deptt. has also made suitable proposal for creation of one post of Aerodrome Officer.

The Deptt. is based four Aerodromes i.e. in Palam, Sarsawa, Doom Dooma and Charbatia. While the ATC units/works in respect of Palam and Sarsawa, are being looked after by NAAI and IAF respectively, the works only two Aerodromes i.e. Doom Dooma and Charbatia, are manned by ARC. Initially staffs were brought on deputation from IAF and Met Deptt. and thereafter Direct Recruitment have been made by the Deptt. These Direct recruits are being trained in the Training Institutes as the job requirement is very much specialised in the field of Aviation.

The pay scales to the post were initially made in consultation with DGCA (Now NAAI), but such scales have been fixed by the Deptt only in consultation with the Ministry of Finance as per laid down procedure of the Govt.

The RRs to this post and various other were notified by the Govt. after due consultation with DP & T and Ministry of Law in 1977. At that time there was a post of Aerodrome Officer and as such the provision of promotion from the feeder grade i.e. Asstt. Aerodrome Officer was kept. However, there was no promotional post in Group 'A' scale for the Wing of the ATC in respect of posts like ATOs & Asstt. Meteorologist - which comes under the same unit. To obviate such discrepancies, one post of ATC (Admn) Officer was created and the lone post of Aerodrome Officer was surrendered. It is worthwhile to mention that the applicant was promoted as Asstt. Aerodrome Officer in 1988 only and the post of Aerodrome Officer was surrendered in 1985 - much earlier to his promotion in the present rank as such it was not discriminatory attitude but in the operational interest of the Deptt. As already mentioned earlier, the restructure proposal to the entire cadre has already been reviewed and Govt. has been moved for creation of few additional posts. Charter of duties of all posts have been re-allocated.

As per RRs, the post of ATC (Admn) Officer can be filled by the following methods (a) transfer on deputation/transfer of IAF officer having experience as Air Traffic Controller and as Administrative Officer, (b) transfer on deputation/re-employment of Armed Force Personnel having requisite experience. There exists no post of Senior Traffic Controller in this organisation. The post of ATC (Admn) Officer had to be filled in by means of deputation from Indian Air Force and the method of recruitment to fill up the post of ATC (Admn) Officer do not contain the provision of promotion from the post of Asstt. Aerodrome Officer, which is much below the scale and rank than that of the post of ATC (Admn) Officer. It is pertinently mentioned here that the aircraft

operations conducted by this organisation are very much akin to the operation to the IAF and not comparable with air operation of the Airlines or any other Civil Aviation Organisation. The Deptt. being a security organisation conducted an air operations in the interest of national security and the expertise required for conducting such air operation on demands, experience of air operations akin to that of IAF and therefore the requirement of an ATC having served in the IAF.

The applicant has correctly mentioned that he can only be promoted to the post of Aerodrome Officer. However, the lone post had to be surrendered in 1985 due to administrative and operational reasons in public interest. Further added that for creation of one post of Aerodrome Officer, Govt has already been moved. No injustice has been done to the applicant as mentioned in this O.A. The applicant is drawing basic pay of Rs. 2450/- in the pay scale of Rs. 2000-3500/-. His pay in the scale of pay has not yet been stagnated. There are a number of officials, who are being allowed additional increment consequent on their stagnation in the scale of 2 years or more as per Govt. policy. The framing/ amendment of RRs are made in the operational interest of the organisation after the approval of DP & T and not for the benefit of an individual.

This Department i.e. ARC is a security organisation under Dte. General of Security, Cabinet Sectt., Govt. of India. The tasks assigned to the department involves air-operation of great importance in the interest of national security. Since a number of aircrafts of various categories are to fly - the Deptt. has to depend on Indian Air Force for suitable trained officers/officials in various trades.

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Filling up the post of ATC (Admn) Officer by the Deptt. by means of deputation from IAF is neither unjustified nor unwarranted as stated by the applicant. The applicant may be experienced in his field of works i.e. on Control Tower but got no supervisory experience in other field. Moreover, there are other officers in the ATC unit, who are also in the same capacity e.g. Asstt. Aerodrome Officer, Assistant Technical Officer and Assistant Meteorologist. The ATC(Admn) Officer's post fell vacant due to repatriation of one IAF deputationist and has to be filled up for smooth functioning of the ATC unit as a whole.

9. That with regards to the contents made in paragraph 7 of the application the respondents beg to state that the applicant submitted another application on 15.12.95 addressed to the Director, ARC requesting for his promotion as ATC (Admn) Officer - which could not be acceded to due to the reasons mentioned in the preceding paragraphs.

The applicant was informed of the decision.

8. That with regards to the contents made in paragraph 8 of the application the respondents beg to state that they have no comments.

9. That with regard to the statement made in paragraph 9 of the application (Relief Column) the respondents beg to state that the relief(s) sought for are not maintainable owing to the followings :

i. The lone post of Aerodrome Officer was surrendered by the Deptt. Another post of ATC (Admn) was created for supervision and control on the work and staff of all the branch of ATC unit as a whole. The action taken by the Deptt. was neither illegal, nor arbitrary as mentioned above the applicant rather more rational in the interest of public exigencies.

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ii. The Deptt. has already reviewed the entire structure of ATC unit by forming Board of Officers and has projected the cases for additional requirement of posts which include one post of Aerodrome Officer. Suitable amendments to RRs can only be incorporated when Govt. sanction is received.

iii. The post of ATC (Admn) Officer is much more required than that of the post of Asstt. Aerodrome Officer. There has been an intermediary scales exist in between the post of Asstt. Aero. Officer and ATC (Admn) Officer. Promotions are made from feeder grade to next higher grade (scale), but jumping is not allowed.

iv. The pay scales to the post of ATC units were framed by the Deptt. in consultation with the pay scale of DGCA (now NAAI). In NAAI, both the posts of Asstt. Aero. Officer and Aero. Officer exists and as such they have kept the provision of promotion of Asstt. Aero. Officer to Aero Officer, but not to the post like ATC (Admn) Officer. In ATC, if a post of Aero. Officer is same, the provision of promotion can be incorporated in the RRs as & when the sanction for the post is received from Govt.

v. Since the lone post of Aerodrome Officer had to be surrendered in the better interest of the Organisation as a whole - no discrimination has been made.

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vi. There exists no rule to say that when an official remains in one post, the same is to be treated as penalty. In the case of the applicant, he has already earned one promotion from the feeder grade and has not yet been stagnated in the scale of pay. The statements made by the applicant are totally misconceived.

vii. The applicant had got promotion to the post of Asstt. Aero. Officer in 1988 only. The lone post of Aerodrome Officer has been surrendered in 1986 - such before his promotion and hence he was never eligible for promotion as Aero. Officer. The Deptt. has also moved for creation of one post of Aero. Officer.

viii. The respondent No.2 had to reject the requests of the applicants as such requests are not based on any rules and prejudicial to the other colleagues of the applicant. No drastic action has ever been taken by the Deptt. as mentioned by the applicant.

ix. The reasons as to why an Asstt. Aerodrome Officer who is a Group 'B' (Gazetted) Officer in the pay scale of Rs. 2000-3500 like other ATOs & Asstt. Meteorologist of the Deptt., cannot be promoted as ATC (Admn) Officer in the scale of Rs.3700-5000, have already been mentioned in the preceding paragraphs. In case such a provision, if acceded to, the same will be violative of instructions of the DP & T and detrimental to the interest of other colleagues of the applicant like ATOs and Asstt. Meteorologists etc., who also claim the same

provision of promotion in their respective trade. The averment made by the petitioner is baseless and bias in nature. However, in the restructuring proposal that we have moved the Govt. a provision of promotional post i.e. Aerodrome Officer has already been made.

x. In view of above, the interim order prayed for should not be granted to the applicant.

10. That the applicants are not entitled to any relief as sought for in the application and the same is liable to be dismissed with costs.

V E R I F I C A T I O N

I, Shri R.K.Mahajan, Deputy Director (Admn)
Aviation Research Centre, Government of India, Doom Dooma
do hereby solemnly affirm and declare that the contents made in paragraph 1 of this written statement are true to my knowledge and those made from paragraphs are derived from records which I believe to be true and rests are my humble submissions before the Hon'ble Tribunal.

And I sign this verification on this the 23rd day of August, 1996 at


Deponent

D.D. (Admn.)
विमानन अनुसंधान केन्द्र,
Aviation Research Centre,
डूम डूमा
Doom Dooma