

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.317/2003  
MA No.319/2003

New Delhi this the 29th day of April, 2004.

HON'BLE MR. V.K. MAJOTRA, VICE-CHAIRMAN (ADMN)  
HON'BLE MR. SHANKER RAJU, MEMBER (JUDICIAL)

1. CSMRS-Group 'B' R&D,  
Professionals' Association,  
Central Soil & Materials  
Research Station,  
Ministry of Water Resources,  
Hauz Khas, New Delhi-110016  
represented through  
Dr. S.N. Sharma its Secretary.

2. Shri A.K. Aggarwal,  
S/o Shri Jai Prakash,  
R/o MG-I/80, Vikaspuri,  
New Delhi-110018 working  
as R.O. with respondent No.2.

3. Smt. Beena Anand,  
w/o Sh. Vinod Anand,  
R/o Qtr. No.663, Sector-IX,  
R.K. Puram, New Delhi-22  
working as A.R.O. with  
the respondent No.2.

-Applicants

(By Advocate Shri R.N. Singh)

-Versus-

1. Union of India through  
Ministry of Water Resources,  
Sharam-Shakti Bhawan,  
New Delhi-110001  
through the Secretary.

2. Central Soil and Materials Research,  
Station (CSMRS),  
Olof Palme Marg, Hauz Khas,  
New Delhi-110016  
through the Director.

2. Union Public Service Commission,  
Dholpur House, Shahjahan Road,  
New Delhi-110011  
through its Chairman.

-Respondents

(By Advocate Shri K.C.D. Gangwani)

O R D E R (ORAL)

By Mr. Shanker Raju, Member (J):

Applicants impugn Central Soil and Materials  
Research Station, New Delhi (Group 'A') Posts Recruitment  
Rules, 1983 as well as action of the respondents by not  
considering Assistant Research Officers (AROs) and Research

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Assistants 9RAs) for promotional post of Senior Research Officer (SRO).

2.. At the outset, learned counsel placing reliance on the decision dated 11.11.2003 in CSMRS Group "B" R&D Professionals Association v. Union of India states that it may be deleted from the array of parties, i.e., applicant No.1 the Association. It is contended that the OA is maintained only in respect of applicants No.2 and 3.

3. Learned counsel for applicant presses MA for joining together on the ground that though applicant No.1 and 2 are Group "A" and "B" respectively, yet on consideration of the record, referred to above, they have a common interest.

4.. On the other hand, learned counsel for respondents vehemently opposed this.

5. On careful consideration as we find that in the present OA common interest of representation towards deputation for consideration of promotion to SRO is involved, accordingly MA is allowed. The objection of the respondents is over-ruled.

6.. Applicants are RO and ARO working with the respondents. They impugn the recruitment rules which deprive departmental candidates to be considered for promotion to the post of SRO against promotion/transfer/transfer on deputation, whereas the only eligible feeder category is RO with five years' regular service in the grade. Though they are allowed to avail the

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benefits in other departments the same has been denied by the respondents in their own establishment. It is in this conspectus stated that despite OM dated 1.8.2002 for introduction of FCS from the grade of RA onwards and promotion of ARO with 8 years service as SRO were forwarded to the Ministry of Water Resources in January, 2003, which is still under consideration.

7. Learned counsel for applicants brought to our notice a decision of the Jaipur Bench of the Tribunal in OA-60/96 - Dr. M.N. Khan v. Union of India, decided on 22.2.1998, where with regard to eligibility list for the post of Scientist 'C' failure to include the name of applicants in the eligibility list on the ground that they have not completed five years' service without adding the service on the lower post, Tribunal allowed the OA which stood affirmed by the High Court of Rajasthan at Jaipur in CWP No.4628/98 decided on 25.2.2000. In the above conspectus it is stated that the decision in so far as decidendi is concerned, applies to the present case as well.

8. Learned counsel for applicants states that applicants are in the pay scale of Rs.6500-10500 and they cannot be deprived of their rightful claim of consideration against the erstwhile service also.

9. On the other hand, respondents' counsel by referring to the reply contends that the amendment of CSMRS Group 'A' Recruitment Rules in so far as incorporation of necessary changes consequent upon the orders and instructions and also revision and upgradation of pay scale is under consideration and would be examined.

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10. Having regard to the rival contentions of the parties though we know our limitations in a judicial review, yet keeping in view the decision of the Jaipur Bench as well as High Court of Jaipur, we are of the considered view that grievance of applicants is well founded. They have a right to be considered against the deputation as departmental candidates. Respondents are in seize of the matter and necessary amendment would be given effect to.

11. By an order dated 11.2.2003 any appointment and promotions to be made have been made subject to the final decision of the present OA.

12. Having regard to the fact that the issue is under consideration of the Government, OA stands disposed of with a direction to the respondents to effect necessary changes in the recruitment rules as to incorporate promotional avenues for applicant in the light of the decision of the Jaipur High Court (supra) within a period of four months from the date of receipt of a copy of this order. Till then respondents are restrained from making any selection/appointment on the basis of the recruitment rules in vogue. However, we observed that in so far as eligibility and qualifications of applicants are concerned, while <sup>amending the</sup> recruitment rules the same shall not be over-looked to their prejudice. No costs.

  
(Shaker Raju)  
Member (J)

'San.'

  
(V.K. Majotra)  
Vice-Chairman(A)