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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

OA NO. 1545/2003

This the 1st day of August, 2003

HON'BLE SH. V.K. MAJOTRA, MEMBER (A)  
HON'BLE SH. KULDIP SINGH, MEMBER (J)

Cleetus T. Johnson  
S/o Tobias Johnson,  
R/o H-516, Kali Bari Marg,  
New Delhi-110001.

(By Advocate: Sh. George Parackin)

Versus

Union of India through  
The Secretary,  
Department of Industrial Policy and Promotion,  
Udyog Bhawan, New Delhi-110011.


(By Advocate: Sh. Arun Bhardwaj)

ORDER (ORAL)

By Sh. Kuldip Singh, Member (J)

Applicant is aggrieved on inaction on the part of the respondents in not considering him for absorption in the post of Economic Investigator (Grade-I) in terms of the Recruitment Rules but on the contrary filling up the post of Economic Investigator on ad hoc deputation basis and inviting applications for preparations for a panel to fill up the said posts.

2. Applicant was initially appointed on deputation basis to the post of Senior Investigator Group 'B' in the pay scale of Rs.5500-9000 (pre-revised) under the respondents and is continuing as such. Applicant further alleges the recruitment rules for the said post were published in the Gazette of India dated 17.6.1978 amended on 5.8.1992. As per the method of recruitment was 33.1/3% by promotion and 66.2/3% by transfer on deputation failing which by direct recruitment.



3. Respondents is alleged to have superseded the 1992 recruitment rules vide another notification dated 10.7.2002 and the method of recruitment was also changed. Under the new rules recruitment to the post is to be made 50% by direct recruitment, 25% by promotion failing which by deputation and 25% by deputation/absorption. It is further stated that according to the revised rules of 10.7.2002 there are 7 posts of Economic Investigator (Grade-I) out of which 2 posts should be filled up by deputation/absorption and since the applicant has been appointed on deputation basis since 11.12.1997, so he is entitled and eligible for absorption in the said post, as he meets all the requisiti qualification.

4. Therefore, applicant seeks a direction to the respondents to consider the applicant for absorption in the post of Economic Investigator. Applicant further alleges that he fulfills essential qualification as required by the revised rules as he has rendered 5-1/2 years service as a deputationist and for the post meant for absorption, applicant is also eligible. Applicant is also willing to be considered for absorption and the lending and borrowing authority in the case of applicant is same, namely, the respondent itself. So the respondents should be directed to fill up the vacancy by the mode of deputation/absorption under 25% quota.

5. Respondents are contesting the OA. It is admitted that the applicant is working as Economic Investiagtor (Grade-I) on deputation basis. However, it is stated that the extension of deputation period beyond the period mentioned in the recruitment rules is governed by the DOPT OM dated 5.1.1994. Since the applicant has been granted extension beyond 3 years

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with the approval of the competent authority and last extension has been granted upto 5.1.2003 and the case for extension beyond this period is still under process.

6. Respondents, however, pleaded that the proposal for rightsizing the department of Industrial Policy & Promotion in terms of the recommendations of the Expenditure Reforms Commission is being finalised. As per this proposal a number of posts in various grades including Economic Investigator Grade-I are to be reduced. To facilitate reduction of posts on finalisation of the rightsizing of the department, vacancies in various grades are not filled up on regular basis. So in order that work may not suffer, respondents were competent to make ad hoc appointment up to a period of one year in circumstances where posts are not filled up on regular basis and also where posts cannot be kept vacant. Rejoinder to the same has also been filed.

7. We have heard the learned counsel for the parties and gone through the record.

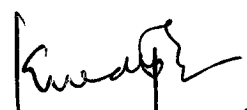
8. Learned counsel appearing for the applicant submitted that since the guidelines for appointment on deputation/absorption basis have been finalised and recruitment rules have been issued to that effect, so in the presence of the recruitment rules, the department cannot resort to ad hoc appointments and the department has to fill up the post in accordance with the recruitment rules. In the case of the applicant, he has to be considered by the department since the applicant fulfills the essential qualifications.

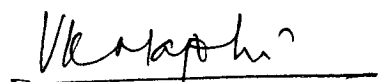


9. We have considered these contentions of the parties. We may state as far the absorption of a deputationist in the post of Economic Investigator (Grade-I) is concerned, the applicant can put up his claim only when the respondents are going to fill up the vacancies on regular basis. Since the respondents, as a policy decision, have not decided to fill up the vacancies for the time being as they are still proposing to restructure the cadre as they want to reduce the number of posts of Economic Investigators further on the basis of the report of a work-study conducted by the department, so the respondents are within their right for not filling up the vacancies. Applicant or the Courts cannot compel the respondents to fill up the vacancies under the 25% quota of deputationist who can be absorbed in the said post. The absorption of a deputationist cannot be done without the consent of the department where an employee is to be absorbed.

10. Besides that the recruitment rules shows that the 50% of the posts are given to the direct recruits, 25% by promotion failing which by deputations and 25% by deputation/absorption. So the first method of recruitment is of direct recruitment. Since the department has not initiated to take any action for direct recruitment so for the said post we cannot ask the department to fill up the post by a last source of recruitment, i.e., by deputation/absorption. As the department is still considering rightsizing the cadre of Economic Investigators, so till that decision is taken, the respondents in their wisdom are not initiating any action for filling up these posts.

11. Thus, we find that OA has no merits. The same deserves to be dismissed. Accordingly, OA is dismissed.

  
( KULDIP SINGH )  
Member (A)  
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( V.K. MAJOTRA )  
Member (A)