

(1)

**Central Administrative Tribunal  
Principal Bench**

**OA No. 1656/2003**

New Delhi, this the 3<sup>rd</sup> day of January 2006

**Hon'ble Mr. V.K. Majotra, Vice Chairman (A)  
Hon'ble Mukesh Kumar Gupta, Member (J)**

1. Shri K.C. Pichori s/o Sh. Govind Ram
2. Shri Ram Pal Singh s/o Sh. Arjan Singh
3. Shri A.K. Bagh s/o Shri J.N. Bagh
4. Shri Sohan Lal s/o Shri Ram Swarup
5. Shri Shiv Charan s/o Shri Sagar Chand
6. Shri Kesho Ram s/o Shri Bhagirath
7. Shri Hari Pal Singh s/o Shri Karan Singh
8. Shri Swatantra Parkash Gupta s/o Sh. Chander Prakash
9. Shri Ganga Bishan s/o Shri Mohan Lal
10. Shri Duraga Prashad s/o Shri Ganesh Lal

(All are employed as Binders in the Govt. of India Press,  
Faridabad)

...Applicants

(By Advocate: Shri D.R. Gupta)

Versus

Union of India through:

1. The Secretary,  
Ministry of Urban Development & P.A.,  
Nirman Bhawan,  
New Delhi.
2. The Director of Printing,  
Ministry of Urban Development & P.A.,  
Nirman Bhawan,  
New Delhi.
3. The Manager,  
Govt. of India Press,  
Faridabad.
4. Shri Yugal Kishore, Reader  
Govt. of India Press,  
Faridabad.

...Respondents

(By Advocate: Ms. Meenu Mainee)

11

**ORDER****By Mr. V.K. Majotra, Vice Chairman (A):**

Through this application, applicants seek declaration of the provisions of the Government of India Presses (Group 'C' and Group 'D' Industrial Posts) Recruitment Rules, 2003 [for short Recruitment Rules, 2003], insofar as they pertain to the recruitment of Section Holder (Bindery)/Time Checker (Bindery) by absorption of Section Holder (Case)/Time Checker (Case)/Section Holder (Mono-Caster) and Reader/Reviser as unconstitutional and violative of Articles 14 and 21 of the Constitution. They further seek quashment of Circular dated 30.05.2003 insofar as it pertains to training of Shri Mohar Singh, Section Holder (Case), Shri Gobind Prasad, Section Holder (Case) and Yugal Kishore, Reader and a further direction to consider applicants' claim for promotion in accordance with the rules.

2. This O.A. was dismissed being without merit vide order dated 03.09.2003. Applicants sought review of Tribunal's aforesaid order through RA No. 27/2004. It was pointed out that certain material placed on record was not taken into consideration while dismissing the O.A. It was stated that as the applicants had put in more than 13 years regular service in the grade of Binders and Assistant Binders taken together, they had become eligible for promotion to the next higher grade of Section Holder (Bindery)/Time Checker (Bindery). Further that the provisions in the Recruitment Rules, 2003 adversely affected the rights of the applicants for promotion and as such offended Articles 14 & 16 of the Constitution. It was pointed out that there was no specific denial of these contentions in the counter reply.



As these facts had not been considered in Tribunal's order dated 3.12.2003, the same was recalled. In result, this O.A. has been re-heard.

3. Learned counsel of the applicants stated that whereas prior to the Recruitment Rules, 2003, the post of Section Holder (Bindery)/Time Checker (Bindery) was available by promotion to Binders with five years regular service/Assistant Binders with combined regular service of 13 years as Assistant Binder and Binder. The Recruitment Rules, 2003 have provided for filling up the post of Section Holder (Bindery)/Time Checker (Bindery) by absorption failing which by promotion, failing which by deputation and failing which by direct recruitment. As far as absorption is concerned, Section Holder (Case)/Time Checker (Case)/Section Holder (Mono-Caster) & Reader/Reviser with five years regular service in the grade after three months' training in Binding Section are eligible. Learned counsel stated that these conditions changed the conditions of service of the applicants adversely for promotion from the feeder cadre of Binders to the post of Section Holder (Bindery)/Time Checker (Bindery). He further stated that the pay scale of Reader/Reviser etc. is the same as that of the Binder to which the applicants belong. The amendment in the recruitment rules has enabled the persons from lower scales in other disciplines to the higher scale of Section Holder/Time Checker overlooking the interests of the applicants.

4. Learned counsel stated that applicants have been working as Binders in the Govt. of India Press in scale of Rs. 4000-6000. They have been accorded the second financial upgradation in scale of Rs.

h

4500-7000 after rendering more than 25 years of service. After rendering 13 years of regular service in the grade of Binders and Assistant Binders, they became eligible for promotion on functional basis to the next higher grade of Section Holder (Bindery)/Time Checker (Bindery) but their legitimate expectations and statutory rights for promotion to the post of Section Holder/Time Checker are sought to be defeated by the amendment, namely, the Recruitment Rules, 2003.

5. Learned counsel of the applicants asserted that the private respondents had been declared surplus and that their deployment has to be done as per policy decision contained in the Central Civil Services (Re-deployment of Surplus Staff) Rules, 1990. These Surplus personnel are being absorbed on higher posts in the applicants' department by giving them a short training superseding the interests of the applicants, who were eligible for promotion to the post of Section Holder (Bindery)/Time Checker (Bindery). Learned counsel of the applicants relied on the following:

- i) ***Union of India vs. Anil Kumar & Ors***, JT 1999(4)(SC)502
- ii) ***Dev Dutt & Ors. vs. State of M.P. & Ors.***, 1992 (SC) (L&S) 210.
- iii) ***Union of India & Ors. vs. K. Savitri & Ors.***, 1998(2) AISLJ, 99.

6. On the other hand, learned counsel of the respondents stated that in the wake of restructuring/modernization of the Government of India Presses, it was decided to merge the Government of India Press (Photo litho Press) with the Govt. of India Press (Letter Press Unit) and



after merger it was called as Government of India Press, Faridabad. As a good number of employees pertaining to the old technology were to be rendered surplus on merger and installation of machinery of new technology, provision was made in the recruitment rules for absorption of surplus employees as a course of first recruitment. Learned counsel stated that the surplus employees in terms of the new rules were to be adjusted and absorbed on first priority after a short training. She further submitted that no live post of Section Holder (Bindery) is at present vacant against promotion quota and against which the applicants may be promoted. She further stated that these applicants have been accorded two financial upgradations under the Assured Career Progression Scheme (for short 'ACP Scheme') after completion of 12 and 24 years of regular service. The past service of the surplus employees to be absorbed on the higher post shall not be counted towards their seniority. They will be kept at the bottom seniority of the holders of that post. At the present juncture, there is no cause of action for the applicants. In the end, the learned counsel contended that the provision of adjustment and absorption of Readers/Revisers is a policy decision of the Government of India in consonance with the provisions of the Surplus Scheme and as such the Court cannot interfere in the same. She relied upon the following:

- i) ***Central Bank Officers Union vs. Central Bank of India***, 2002(1) AISLJ, 139.

h

ii) ***Vijay Laxmi vs. Punjab University & Another,***  
2004(1) AISLJ, 387

7. We have considered the respective contentions of the parties as also the material available on record.

8. According to the applicants, they had become eligible for promotion to the post of Section Holder (Bindery)/Time Checker (Bindery) after rendering more than 13 years regular service in the grade of Binders and Assistant Binders taken together. This contention has not been specifically denied in the counter reply filed by the respondents. They have merely stated that the recruitment rules have been amended and the Recruitment Rules, 2003 provide that the post of Section Holder (Bindery)/Time Checker (Bindery) can be filled up by absorption from Section Holder (Case)/Time Checker/Section Holder (Mono-Caster) and Reader/Reviser with five years regular service in the grade after three months' training in Binding Section. Promotion of the Binders with five years regular service in the grade in the pay scale of Rs. 4000-6000 and failing which Assistant Binders in the pay scale of Rs. 3050-4590 with combined regular service of 13 years in the grade of Binders, is possible only if the methodology of absorption fails. No doubt, a policy decision is within the domain of the Administration. Government can certainly change the recruitment rules provided that they are not violative of Articles 14 & 21 of the Constitution and the decision to change such rules is not arbitrary and unreasonable.

9. In the matter of ***Central Bank Officers' Union & Others*** (supra), O.M. providing for merger of regions for transfer and posting



was challenged alleging that the same was discriminatory. It was found that the decision was made as a policy for which full reasons had been recorded. O.M. dated 05.05.1995 was not found bad, arbitrary and discriminatory.

10. In the matter of **Vijay Laxmi** (Supra), the decision to reserve the post of Principal in Girls Colleges for Women only was quashed by the High Court as discriminatory but such classification was found by the Supreme Court in the interest of public morality and not against the principles of Articles 14 & 16 of the Constitution

11. There is no quarrel with the principle that policy decision of the Government should not be interfered with, however, the trite law on the issue is that such a decision should not be irrational and unreasonable. If a policy decision is in public interest, rational and reasonable, no fault can be found with the same. However, if a policy decision is arbitrary, irrational, unreasonable and not consistent with the Constitution and laws, Courts can certainly interfere in such matters. For this, we draw support from **Union of India & Ors. vs. N.Y. Opte & Ors.**, 1999(1)SLJ 308 (SC) and **Federation of Railway Officers' Association & Ors. vs. Union of India & Ors.**, 2003(4) SCC 289.

12. In the present case, Government decided to restructure/modernize the Government of India Presses. While effecting the merger of the Govt. of India Presses, if the decision was to absorb Reader/Reviser etc. in the same grade, there could not have been any objection, however, decision to provide for absorption of Reader/Reviser etc. in the higher post of Section Holder

*lb*

(Bindery)/Time Checker (Bindery), certainly impinges upon the rights of promotion of the holders of the feeder post. Such a decision is also against the provisions of the Central Civil Services (Re-deployment of Surplus Staff) Rules, 1990 (hereinafter called (Re-deployment Rules, 1990). The following provisions of the these Rules have bearing on the instant case:

**Rule 3(iii)(c):**

It states that vacancies to be filled by promotion where eligible candidates having prescribed qualification for promotion are available in the feeder cadres shall not be reported to the Surplus Cell.

**Rule 4(ii)**

It lays down that the surplus staff nominated by the Surplus Cell shall enjoy first priority for appointment against a vacancy after the disabled Defence Service personnel provided that a surplus employee is already holding an equivalent post with substantially identical duties on a regular basis.

**Rule 5(i)**

As far as possible a surplus employee shall, subject to his suitability, be re-deployed in a post carrying a pay scale matching his current pay scale.

13. The import of the above provisions of the Re-deployment Rules, 1990 is that the surplus employees shall not be considered for adjustment/absorption on posts for which eligible candidates are available in the feeder cadre. In case eligible candidates are not available in the feeder cadre, surplus employees can be considered for adjustment/absorption on an equivalent post carrying the pay scale matching his current pay scale.





14. In the present case, it is not disputed that applicants had become eligible for promotion to the post of Section Holder (Bindery)/Time Checker (Bindery) after rendering 13 years regular service in the post of Binder/Assistant Binder. As such, as per Rule 3(iii)(c) of the Re-deployment Rules, 1990, the post of Section Holder (Bindery)/Time Checker (Bindery) is not reportable to the Surplus Cell. In any case, surplus staff cannot be considered for adjustment/absorption on post which is not equivalent to their original post or which has a higher pay scale than that of their original post. The impugned Recruitment Rules, 2003 have provided for absorption of the Reader/Reviser having some experience and after imparting some training for absorption on the higher post of Section Holder (Bindery)/Time Checker (Bindery) having higher pay scale than that of their original post. Such a decision cannot be said to be rational and reasonable. It is certainly against the provisions of the Re-deployment Rules, 1990. There could be no objection if the rules were amended to the effect that Readers/Revisers etc. with certain amount of experience and training could be adjusted/absorbed on an equivalent post having an identical or lower pay scale than that of the surplus staff. The applicants, who had become eligible for consideration for promotion to the post of Section Holder (Bindery)/Time Checker (Bindery), have certainly been discriminated against by the specific provisions of the Recruitment Rules, 2003. The fact that applicants have already been accorded two financial upgradations under the ACP Scheme cannot come in the way of consideration for their promotion to the next higher post. However, in case the provisions of the Recruitment Rules, 2003 with respect to the post of Section Holder

h

(Bindery)/Time Checker (Bindery) are given effect to, the applicants shall not get the first opportunity of consideration for promotion in their Parent Organization. As such, an opportunity would be available to them only if the post of Section Holder (Bindery)/Time Checker (Bindery) cannot be filled by absorption of Section Holder (Case)/Time Checker (Case)/Section Holder (Mon-Caster) and Reader/Reviser with 5 years regular service in that grade after three months' training in Binding Section. The applicants, who had earned a right of consideration for promotion under the then existing rules for promotion to the post of Section Holder (Bindery)/Time Checker (Bindery), shall be denied consideration for promotion of Section Holder (Bindery)/Time Checker (Bindery) by first priority, as a provision has been made for absorption of Section Holder (Case)/Time Checker (Case)/Section Holder (Mono-Caster) and Reader/Reviser of another Organization to the post of Section Holder (Bindery)/Time Checker (Bindery).

15. Respondents have not denied the contention that applicants had become eligible for consideration for promotion to the higher grade of Section Holder (Bindery)/Time Checker (Bindery) after rendering more than 13 years of regular service in the grade of Binders/Assistant Binders. They had a legitimate expectation and right for consideration for promotion, which stands defeated in the teeth of the provisions of absorption of Readers/Revisers made in the Recruitment Rules, 2003. Applicants have been discriminated against through these provisions, which are also contrary to the spirit of the provisions contained in the Re-deployment Rules, 1990. There can be no objection if Readers/Revisers etc. are declared surplus under the Re-deployment

*b*

Rules, 1990 and provisions are made for their adjustment/absorption on equivalent posts having identical pay scale as that of their original posts.

16. During the course of oral hearing learned counsel for applicants, on a query raised, admitted that all the applicants are working as Binders in Government of India Press and the pay scale to the post of Reviser/Binder is the same i.e. Rs. 4000-6000/-. At the best, Revisers can be adjusted against the resultant vacancies of Binders on promotion to the next grade of Section Holder and in no case they be given promotional post of Section Holder straight away. Binders herein have been granted the second financial upgradation in the pay scale of Rs. 4500-7000/-, which is precisely the pay scale of Section Holder.

17. On bestowing our careful consideration to the entire facts, as noticed hereinabove, we find that Rule 3 of the Central Civil Services (Re-deployment of Surplus Staff) Rules, 1990 deals with the reporting of vacancies to the Cells and as per clause (i) to sub rule 2 of the said Rules, all the vacancies in the Central Civil Services and Posts in Group 'C' & 'D' except those covered by clause (iii) of this sub rule are required to be filled up from amongst the surplus staff sponsored by the concerned Cell. As per clause (iii) to sub rule (2), the vacancies of certain categories need not to be reported to the concerned Cell, which are liable to be filled by promotion and where eligible candidates having prescribed qualifications for promotion are available in the



feeder cadre. As per Rule 4 (2) of the aforesaid Rules, the staff nominated by the Cell enjoys "first priority" for appointment against a vacancy after the disabled Defence Service Personnel, provided that a surplus employee is already holding equivalent post with substantially identical duties on a regular basis will not be treated as unsuitable for appointment to the post merely on grounds of not possessing the educational or technical qualification prescribed for appointment thereto. As such, it is not disputed that Section Holders (Case)/Time Checkers (Case), Section Holders (Mono-Caster) are holding the equivalent post and scale with substantially identical duties and the grievance remains only with the category of Reader/Reviser, which not only carries the lower pay scale of Rs. 4000-6000/- & equivalent to the Binders, but had been the feeder grade for the post of Section Holder (Bindery).

Examining the issue from this angle, we find that the policy decision bringing about the provisions of absorption of Section Holder (Case)/Time Checker (Case)/Section Holder (Mono-Caster) of another Organization under Recruitment Rules, 2003, in the light of the above discussion, cannot be said to be irrational, unreasonable and inconsistent with the provision of re-deployment Rules, 1990. The only offending portion remains with the category of Reader/Reviser of the another Organization which carried the lower pay scale and their absorption in the higher post certainly would be against the preemptive right for

*b*

consideration of the applicants for promotion to the post of Section Holder (Bindery)/Time Checker (Bindery).

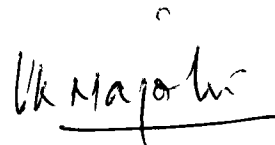
18. In the result, the provision of absorption of Section Holder (case)/Time Checker (Case)/Section Holder (Mono-Caster) and Readers/Revisers with five years regular service in the grade after three months' training in Binding Section on the post of Section Holder (Bindery)/Time Checker (Bindery) in the Government of India Presses (Group 'C' and Group 'D' Industrial Posts) Recruitment Rules, 2003 is upheld and the provision of the rules relating to category of Reader/Reviser of another Organization carrying the lower pay scale of Rs. 4000-6000/- made eligible for absorption is declared ultra vires. Respondents may, if eligible candidates are available, proceed with the provisions relating to promotion/deputation on the post of Section Holder (Bindery)/Time Checker (Bindery) in accordance with the provisions of Government of India Presses (Group 'C' and Group 'D' Industrial Posts) Recruitment Rules, 2003, except to the extent as held hereinbefore.

19. In view of the above observations, the present Original Application is allowed in above terms, with no order as to costs.



**(Mukesh Kumar Gupta)**  
Member (J)

/na/



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