

Arvind Dhanvick and Others Vs. Union Of India and Others.

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Court : Delhi

Decided On : Mar-08-2016

Judge : Sanjiv Khanna & Ashutosh Kumar

Appeal No. : W.P.(C).No. 7503 of 2015

Appellant : Arvind Dhanvick and Others

Respondent : Union Of India and Others.

Judgement :

SANJIV KHANNA, J. (ORAL)

1. Having heard learned counsel for the petitioners, we are not inclined to interfere with the impugned order dated 7.2.2014 and review order dated 15.7.2014 whereby Original Application No.3271/2011 and connected applications, and RA No.118/2014 and connected applications have been dismissed.

2. The petitioners, four in number, were working as Statistical Computer in the pay scale of Rs.1200-2040/- in the All India Radio. The next promotional post was Investigator/Statistical Assistant in the pay scale of Rs.1400-2300. The total number of posts of Investigator/Statistical Assistants was 107 and that of Statistical Computer, 31.

3. As per the recommendations of the Fifth Pay Commission which were accepted on 30th September, 1997 and implemented in the All India Radio with effect from

1st February, 2000, it was decided that the post of Statistical Computer would be a dying cadre for which there would not be any further recruitment.

4. The Audience Research Cadre was re-structured with effect from 8th August, 2000 vide order dated 20th September, 2000. As a result of the re-structuring existing posts of Investigator/Statistical Assistant were abolished, and 50 posts of Investigator Grade I and 57 posts of Investigator Grade II in the pre-revised pay scale of Rs.1640-2900 and 1600-2660/- respectively, were created.

5. Promotions from the post of Statistical Computers to the post of Investigator Grade II could not be made from 2000 to 2003 as the Recruitment Rules of Audience Research Cadre were being finalized and under preparation.

6. As the post of Statistical Computer was declared a dying cadre, it was decided with approval of authorities, that 25% of the vacancies in the Investigator Grade II would be filled up by way of promotion from the post of Statistical Computer. Arvind Dhanvick, one of the petitioners, was thereafter promoted as Investigator Grade II in 2006 and the other petitioners in 2008.

7. In the meanwhile, six persons were appointed as Investigator/Statistical Assistant as direct recruits , with effect from the following dates:-

37.	Sh. Nirodh Kumar Patra	01.06.1999
38.	Sh.Praveen Nagdive	18.08.1999
39.	Sh.Ajit Mahto	23.08.1999
40.	Sh.Elango	13.10.1999
41.	Sh.Shafat Hussain	25.01.2000
42.	Sh.Anil Kumar Mandi	28.02.2000

8. The Tribunal in the impugned order has noted that this recruitment was before 27.1.2000, i.e., the date on which the Fifth Pay Commission recommendations were accepted and the circular dated 1.2.2000 was published. The said six had actually joined service on or before 27.1.2000, except Anil Kumar Mandi who

joined on 28.02.2000. These appointments were before the cadre restructuring exercise effected from 8th August, 2000 vide order dated 20th September, 2000.

9. The petitioners claim that the six appointments should not have been made, and instead, they should have been promoted to the post of Investigator Grade II. It has been further submitted that the Fifth Pay Commission recommendations were accepted on 30th September, 1997 and were effected from 1.1.1996.

10. We have already noted that the recommendations of the Fifth Pay Commission regarding posts of Statistical Computers were implemented with effect from 27.1.2000. Thereupon, in terms of the circular dated 1.2.2000, the post of Statistical Computer was declared a dying cadre. We have noticed that there was a re-structuring of Audience Research Cadre with effect from 8th August, 2000 as stipulated in the order dated 20th September, 2000.

11. In the original application filed in the year 2011, order dated 27.1.2000 by which the Fifth Pay Commission's recommendations were implemented, the circular/order dated 20.9.2000 by which cadre re-structuring was directed, were challenged. It is difficult to believe that the petitioners working in the same organization were not aware of the appointments of the aforesaid six direct recruits in the year 1999-2000. Further, these appointments were made in 1999-2000, by way of direct recruitment, in accordance with the extant Recruitment Rules.

12. The petitioners, if they had any grievance with the orders dated 1.2.2000 or 20.9.2000 and were seeking promotion in the year 2000 or earlier, should have raised their objection and claim in 2000 soon thereafter. The cause of action had arisen once the circular dated 1.2.2000 and order dated 20.9.2000 were circulated.

13. Furthermore, the contentions of the Petitioners, as are apparent from the Tribunal's order, are ambiguous and confusing. Their precise grievance it appears is stagnation, because in the 2009 Seniority List, they have been placed below the six direct recruits mentioned above. It is obvious that these direct recruits were appointed and had taken over as Investigator Grade II in the year 1999-2000, before Petitioners were promoted to the said posts. This is the reason, it appears,

as to why the Petitioners have not referred to any rule governing seniority or violation thereof. The six direct recruits were also not made a party to the OA, and are not a party to the present writ petition.

14. In case petitioners had sought antedating of promotion or notional promotion to the post of Investigator Grade II, they were required to make out a clear case of violation of rules, or that the appointments were deliberately delayed though there were existing vacancies in the 25% quota. In case they were challenging the recruitment rules/ criteria followed for promotion to Investigator Grade II, once Statistical Computer was declared a dying cadre, then again a clear cut case should have been made out. Question of limitation and other aspects would have arisen and examined in light of the said contention. The petitioners have not made any such foundation and accordingly the Tribunal has dismissed the OA.

15. We do not see any reason to interfere with the impugned order on mere general assertions, without a factual foundation and legal basis. Looked from all angles, we find that there is no merit in the present writ petition and the same is dismissed.

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