
(1976) 07 CAL CK 0038
In the Calcutta High Court
Case No : F.M.A. No. 1975

Prasanta Kumar Das

APPELLANT

Vs

Union of India (UOI)

RESPONDENT

Date of Decision : 23-07-1976

Acts Referred:

Constitution of India, 1950 — Article 16, 309

Engineering Supervisors (Recruitment and Training) Rules, 1966 — Rule 1

Citation : (1976) 2 ILR (Cal) 336

Hon'ble Judges : M.N. Roy, J;Anil K. Sen, J

Bench : Division Bench

Advocate : B.C. Datta and Partha Dutta, for the Appellant;N.C. Chakrabarti and S.M. Sanyal, for the Respondent

Final Decision : Dismissed

Judgement

Anil K. Sen, J.—This appeal under Clause 15 of the Letters Patent is directed against tire judgment and order, dated December 10, 1974, passed by Chittatosh Mookerjee J., in C.R. No. 2109 of 1974. By the Said judgment and order the learned Judge discharged the Rule earlier obtained by the Appellant-Petitioners on a writ petition and the writ petition was dismissed.

2. In the writ petition as it stands after its amendment the Appellants were challenging the validity of the Engineering Supervisors (Recruitment and Training) Rules, 1966, 1972 and 1974, on the ground that such Rules are ultra vires and unconstitutional and they were further disputing the validity of recruitments made to the cadre of Engineering Supervisors in accordance with such Rules.

3. The Appellants are Class III employees of the Posts and Telegraphs Department of the Government of India and they differently represent the cadres of Repeater Station Assistants, Telephone Inspectors, Auto Exchange Assistants and Wireless Operators. All of them belong to such a group of employees as have the pay scale of Rs. 380 to Rs. 560 (in this judgment for brevity this group would

be referred to as the Appellant group). The Respondents Nos. 3 to 6 are also Class III employees of the same Posts and Telegraphs Department, but they belong to cadres somewhat lower than that of the Appellant group. They belong to the cadres of Telephone Operators, Technicians, Lower Division Clerks etc., in the pay-scale of Rs. 260 to Rs. 480 (in this judgment hereinafter they would be referred to as the residue group).

4. To appreciate the dispute between the parties and to decide the issues raised before us it would be necessary for us to take note of the evolution of the Rules as to recruitment of Engineering Supervisors. The first such Rule to which our attention has been drawn is as it was incorporated in append. XV of 1950 of the Posts and Telegraphs Manual. This Rule provided that 50% of the vacancies in the cadre of Engineering Supervisors, which constitutes the avenue of promotion for Class III employees, would be filled up by promotion of departmental candidates and the remaining 50% is to be filled up by direct recruitment. Under this Rule, the departmental candidates included not only the Appellant group of Class III employees but the residue group too. As between the two groups, however, there was no fixed quota. The next in point of time is the 1955 Rule which broadly maintained the procedure as in 1950 Rules though it provided that in case of departmental candidates half of their 50% quota would be filled up on the basis of selection by a competitive examination and the other half by a qualifying departmental test. In this Rule too, the 50% quota reserved for departmental candidates were thrown open to all the Class III staff of both the Appellant group and the residue group.

The 1959 Rule again retained the aforesaid method of recruitment from two sources, namely, direct recruitment and promotion from amongst departmental candidates, but the quota of direct recruitment was raised to 75% and that of the departmental candidates was reduced to 25%. This Rule which had been in existence and in operation upto 1966 had never been challenged to be in any manner ultra vires or unconstitutional.

5. In 1966, a new set of Rules was framed under Article 309 of the Constitution in supersession of the previous Rules. These Rules while retaining the aforesaid method of recruitment from two sources provided that 65% of the Engineering Supervisors was to be directly recruited on the basis of the results of a competitive examination as prescribed by the Rules and the balance 35% of the vacancies was allotted to the departmental candidates for being filled up from amongst them on promotion also on the results of a competitive examination as prescribed in the Rules. In these Rules, for the first time, however, the quota reserved for departmental candidates was distributed as between the two groups of Class III employees, namely, the Appellant group and the residue group. Of the 35% of the vacancies available to the departmental candidates 20% was allotted to the residue group while 15% was allotted to the Appellant group. Such reservation as between the two groups, however, was made subject to a condition, namely, that in case of any shortage of qualified candidates in either of

the two categories the same may be filled up by a qualified candidate from the other category. The 1972 Rules superseded 1966 Rules, but these Rules retained the method as introduced by the 1966 Rules but only enhanced the quota of direct recruits from 65% to 75% and reduced the respective quotas of the Appellant group and the residue group by 5% each. Lastly, came the 1974 Rules which reduced the quota of direct recruits to 65% once again, maintained 15% for the residue group but enhanced the quota in favour of the Appellant group from 10% to 20%. It further provided that out of the said 20% allotted to the Appellant group 10% was to be filled up on the results of a competitive examination as prescribed by the Rules and was prevalent from before and the remaining 10% is to be filled up by promotion from amongst the categories of employees belonging to the Appellant group on seniority cum fitness basis through a separate qualifying test. In substance, the 1974 Rules went all in favour of the Appellant group when the quota allotted to them was not only doubled but half of that was directed to be filled up on a mere seniority cum fitness basis and not on any competitive examination.

6. On the Rules, as aforesaid, the main contention of the Appellants is that such Rules are discriminatory and they deny equality of opportunity for promotion to the categories of employees to which the Appellants belong. It is so, as is contended by Mr. Dutt on behalf of the Appellants, firstly, because the quota as between the direct recruit and the departmental candidates had been fixed and varied from time to time arbitrarily and without any justifiable grounds therefor and secondly, because the Appellant group which represents not only the higher cadre but the promotional rank also for the employees belonging to the residue group had been equated with the said residue group for the purpose of further promotion to the rank of Engineering Supervisors. Particular exception has been taken by Mr. Dutt to the reservation of a fixed quota in favour of the residue group and introduction of a method of close circuit recruitment and selection from amongst the said group in respect of the quota allotted to them which according to Mr. Dutt often results in the inequitable consequence of lower grade employees belonging to the said group obtaining promotion to the rank of Engineering Supervisors superseding the claim of better candidates left behind in the Appellant group. Mr. Dutt, therefore, contends that these Rules are violative of Article 16 of the Constitution. Both these contentions failed before the learned Judge in the trial Court and they being overruled, the learned Judge upheld the constitutional validity of the Rules as aforesaid.

7. The first objection raised by Mr. Dutt is that the aforesaid recruitment Rules arbitrarily fixed and varied from time to time the quotas allotted to the direct recruits and departmental candidates respectively. It is claimed that such fixation or the variations are not based on any reasonable basis. On the Rules as they exist and as they have evolved since 1950, two sources of recruitment to the cadre of Engineering Supervisors--one by direct recruitment and the other by promotion of departmental candidates,--is well recognised throughout. In our view, the learned Judge is right in holding that there is nothing inherently

unconstitutional in making such classification between direct recruits and promotees or in providing for fixed quotas for them. Reference may be made to the decision in the case of *Gangaram v. Union of India* 1970 (1) S.C.C. 779.

8. The posts of Engineering Supervisors have always been considered to be as those of technical hands with higher qualification to be manned primarily by men with higher technical qualification and well-equipped for such work. These posts, therefore, were never left to be filled up exclusively by promotion from amongst the Class III employees ordinarily having very little technical qualification, ff in such a background the authorities had reserved a substantial part of the vacancies in this cadre for being filled up by direct recruitment of candidates with advanced technological qualification, it can hardly be said that such reservation is not founded on any reasonable basis. In the affidavit-in-opposition dated September 25, 1974, sworn on behalf of the Respondents it had been categorically stated in para. 5(a) by the Divisional Engineer that fixation of the quota in favour of direct recruits at 75% or 65% was made in view of the nature of employment for which the candidates are directly recruited under the Rules. It had been pointed out that direct recruits possess much higher educational qualifications than the departmental candidates and the nature of the employment is such as would require that majority of the employees in that cadre must possess higher educational qualification. As for the variation of the quota in favour of the direct recruits it is no doubt true that upto 1959 such quota was fixed at 50%, but in 1959 it was enhanced to 75% and since then it had remained as such except for a minor variation in 1966 and 1974 when it was reduced to 65%. Recruitment from two sources being found to be well justified for reasons hereinbefore given, appropriate distribution of the vacancies between the two sources would depend upon the circumstances of each case and the requirement and needs of the administration. Such distribution is to be made by the authorities and unless the ratio fixed is proved to be unreasonable, the same cannot be condemned as discriminatory. It has been rightly pointed out by the learned Judge in the trial Court that it is not for the Court to review whether appropriate balancing of the two sources had been made or not and heavy onus lies on the person who challenges the same as discriminatory to prove that the fixation is so unreasonable or so unrelated to possible requirements and needs of the administration that the same must necessarily be condemned as discriminatory. In our view, the learned Judge has rightly held that the Appellants have failed in the present case to discharge such an onus which lay upon them.

9. That apart there are ample materials on record now before us which justify and account for the variation in the quota for the direct recruits. The quota was raised from 50% to 75% when the recruitment through trade-test was abolished and the requisite minimum qualification for the direct recruits was gradually enhanced. It is obvious, therefore, as is indicated in the affidavit of the Divisional Engineer that the Government thought it necessary that the majority of employees in this cadre of Engineering Supervisors should be possessed of

higher educational and technical qualifications. The minimum qualification for the direct recruits was, therefore, laid down to be Engineering Graduates, Engineering Licentiates or Science Graduates with higher academic qualifications. It was obviously in this context that the recruitment through trade test to 25% of the vacancies as prescribed by the 1955 Rules was abolished and the said quota was merged in the quota of the direct recruits. In 1966, the quota for the direct recruits was reduced to 65% but was again enhanced to 75% in 1972. Such quota was again reduced to 65% in 1974. These variations, as would appear from the averments in para. 4 of the affidavit-in-opposition dated August 27, 1974, filed on behalf of the Respondents and from the affidavit filed as additional evidence in this appeal, were made on the basis of the negotiation between the departmental authorities and the employees' union through the joint consultative machinery. In 1966, the quota in favour of the direct recruits was reduced to 65% and the quota in favour of the departmental candidates was enhanced to 35% on a clear understanding that the standard of departmental examination for effecting promotion to posts of Engineering Supervisors and the syllabus therefor would be raised to B.Sc. level from I.Sc. level as it was in existence earlier. But in the first examination held in 1967, on the higher level as aforesaid, the departmental candidates failed miserably and representations were made on their behalf and negotiations were further held as a result whereof it was agreed that the departmental quota would be reduced to 25% along with the reduction of the standard of examination to I.Sc. level. The quota for direct recruits was, accordingly, again enhanced to 75% in the year 1972. It was reduced in 1974 by 10% only to favour the present Appellants by allotting the said percentage as an additional scope for promotion of employees belonging to the Appellant group merely on seniority cum fitness basis even where such candidates have failed to come out successful in the competitive test. It was a relaxation all in favour of the Appellants and they cannot take exception. In any event, on these materials it is quite explicit that the variation in the quota was never made in an arbitrary manner. It was always made taking into account the necessity of the administration to have the majority of employees belonging to the cadre of Engineering Supervisors with higher educational and technical qualification and each time the variation was made, it was so made on due deliberation and appropriate negotiation between the administration and the employees taking into account the above requirement of the administration. In the circumstances, we are unable to agree with Mr. Dutt that the fixation of the quota in favour of the direct recruits and its variation from time to time were in any way arbitrary or discriminatory. The first objection raised by Mr. Dutt, therefore, fails and is overruled.

10. The second ground of attack is that these Rules in so far as they equate both the Appellants group and the residue group for promotion to the rank of Engineering Supervisors and in so far as further such Rules prescribe quotas and provide for closed circuit process of promotion as between the two groups of promotees are discriminatory and deny equal opportunity for promotion to the

Appellants. To be more precise the second ground of attack has two aspects. Firstly, it is contended that when the posts held by the Appellants group constitute the promotional rank for those belonging to the residue group, the two groups are unequal and when the two unequal groups are equated as equals for further promotion to the rank of Engineering Supervisors they are discriminatory. It is claimed that such Rules deny equal opportunity to the Appellants when they are arbitrarily equated with those much lower in rank and status to them for the purpose of promotion. Such a provision, according to the Appellants, lead to varied inequalities. Firstly, the members of the residue group get simultaneously two avenues of promotion, namely, (i) to the rank and grade of the Appellants and (ii) to that of Engineering Supervisors. Secondly, such a provision provides as a matter of fact a scope for the members of the residue group, inasmuch as when they succeed to get promotion directly to the rank of Engineering Supervisor they skip over the rank and scale of the Appellants. Such a beneficial treatment extended to the members of the residue group is based on no reasonable consideration and such special privilege in favour of the said group must, therefore, be held to be discriminatory and violative of the principles of equality in the matter of affording opportunity for promotion. The second aspect of this ground of attack is with reference to the fixation of quota in favour of the residue group and then limiting the competition as amongst the members of the said group to the extent of such a quota which according to the Appellants often afford an unreasonable preferential opportunity to the members of that group to supersede the members of the Appellants group. According to the Appellants, though both the groups are tested on the basis of the same examination the respective competition being limited to the respective groups for which different quotas are prescribed, it may so happen that a member of the residue group getting lesser marks in the examination may well get the promotion--his competition being limited to members of that group--while a member of the Appellants group obtaining higher marks may be denied the promotion when such marks in the limited competition within his own group do not entitle him to get a post reserved for the group to which he belongs. Thus what is objected is the system of closed circuit competition between the two groups and not an open one. Such a result follows because of fixation of quota as between the two groups which is, accordingly, claimed to be discriminatory and violative of principles of equality in the matter of affording opportunity for further promotion.

11. Such a ground of attack having been raised before the learned Judge with reference to both the aforesaid aspects, the same was overruled. According to the learned Judge, the two groups have been classified as such on a reasonable basis and there is no inherent inequality or arbitrariness in fixing the quota as between the two groups which had always been done as a result of discussions and negotiations between the authorities and the employees. As to the objection that such a process may on a particular occasion afford a candidate from the residue group to get a better chance of promotion because of the quota reserved in their favour superseding one of the Appellants group who might have secured

higher percentage of marks in the examination, the learned Judge observed that such a consequence was wholly fortuitous and such fortuitous consequences would not justify striking out the Rules as discriminatory or violative of the equality of opportunity in the matter of further promotion.

12. The aforesaid ground with reference to the aforesaid two aspects thereof has been reiterated by Mr. Dutt before us once more. According to Mr. Dutt, when the Appellants group held a grade which itself is the promotional grade for the members of the residue group, the two groups could not have been lawfully equated for the purpose of promotion to the rank of Engineering Supervisors. To do so is to treat unequals as equals which is as much discriminatory as treating equals as unequals. We are, however, unable to accept this contention of Mr. Dutt. Throwing open a promotional post to the employees belonging to grades more than one below is not an uncommon feature in service rules of the Government. It is so common in the Railways. Facts and circumstances in a particular case and administrative necessity may justify adoption of such a method of recruitment to promotional posts. It would appear from the affidavit filed by the Respondents and on the Rules as they exist since 1950 that the post of Engineering Supervisors to the extent they are to be filled up by promotion were open to all the Class III employees of both the groups irrespective of their grades. The posts of Engineering Supervisors were never treated to be the promotional posts for one section of the Class III staff, namely, for those belonging to the grade held by the Appellants group. No doubt it is admitted that members of the residue group holding lower grades could on eligibility and seniority be promoted to the grade of the Appellants group, but when the posts of Engineering Supervisors had always been considered to be the promotional rank for Class III employees of both the groups as a whole, it cannot be said that there had been any preferential treatment in favour of the members of the residue group. We shall consider the question of reservation of quotas in between the two groups hereinafter, but the fact remains that the quota for the promotees had all throughout been thrown open to all the Class III staff, belonging to the Appellants group and the residue group and obviously it was so done because, as it has been clearly specified by the Respondents in their affidavit, the promotion to the rank of Engineering Supervisors was always considered to be a promotion open to Class III employees as a whole and not to a particular grade thereof.

13. Moreover, there are valid and cogent reasons for throwing open these promotional posts to all Class III employees of both the groups and those reasons would justify the act of equating the two groups for the purpose of such promotion even if we accept the contention of Mr. Dutt that in adopting such a process the authorities had treated unequals as equals. Treating unequals as equals would not per se be discriminatory if there exist reasonable grounds for such treatment. It would appear from para. 12 of the affidavit-in-opposition filed on behalf of the Respondents that the cadre to which the Appellants group belong only constitute 10% of the other cadres to which the residue group belongs. For the three years 1971 to 1973 while the approximate cadre strength

of the Appellants group was 544, that of the residue group was 5,695. It is obvious, therefore, limiting the avenue of promotion for the members of the residue group to the cadres of the Appellants group alone would limit the scope of promotion for the members of the residue group so much so that it would nearly result in a bottleneck. The natural consequence would be frustration amongst the members of the said group which would obviously affect the efficiency of the administration. If under such circumstances the members of the residue group be afforded only an opportunity to compete and on proof of individual's merit be given an opportunity to get a promotion to the rank of Engineering Supervisor without being first promoted to the grade of the Appellants group, it cannot be said that there exists no justification for providing such a benefit in favour of the members of the residue group. That perhaps is the reason why though this system is in vogue since the beginning, no objection on this account was ever raised.

14. From the further affidavit filed in the appeal disclosing additional evidence called for by this Court it would appear that an attempt was made sometime in the year 1963 to discontinue this system of throwing open the quota for the promotees to all the Class III employees of both the groups. There was a move on the part of the employees' union for allotment of the entire quota for the promotees in favour of the members of the Appellants group, but this the Government could not agree to because the Appellants group constituted less than 10% of the total strength. Justification for maintaining such a system was ultimately conceded on behalf of the employees' union when the union in its letter dated February 5, 1963, observed:

However, we are given to understand that 100% vacancies in the cadre of RSAs etc. were unacceptable. Difficulties were also expressed in selecting sufficient qualified hands to fill up 100% vacancies in RSAs, PIs etc., due to insufficiency of qualified hands.

The All India Conference of Union reviewed the whole position

* * * *

In respect of recruitment to the cadre of ES, the conference recognised the force of logic and therefore, decided to request you that 25% vacancies be filled from RSAs, clerks etc. In taking this decision the conference was also influenced by the feelings of thousand of workers in these grades whose main outlet was sought to be closed.

It would also appear from the other documents disclosed along with the said affidavit filed in this appeal that it had always been accepted as a rule that the quota for promotees for promotion to the grade of Engineering Supervisors was considered necessary to be left open to all Class III employees of both the groups irrespective of their grade. Not only was there sufficient logic behind such a scheme the reasonableness whereof was accepted by the Employees' Union but except for such a system the employees of the residue group would have lost

the main avenue of promotion.

15. On the pleadings of the parties and on the materials thus disclosed we find that the authorities in leaving open the quota for the promotees in the rank of Engineering Supervisors to all Class III employees of the two groups irrespective of their grades did so for two reasons, namely, (i) to afford an opportunity for promotion to the members belonging to the residue group who constitute more than 90% of such employees and who otherwise would have little opportunity to rise in their service career or to get promotion appropriate to their merits even if they were possessed of appropriate merits therefor and (ii) had the promotional quota been limited to the Appellants group alone it would have been difficult for the administration to get appropriate qualified candidates to fill up the quota. Both the reasons, in our opinion, well justify the decision taken by the administration to equate the Appellants group and the residue group for the purpose of further promotion to the rank of Engineering Supervisors and as such, it cannot be said that such a decision is not based on any reasonable consideration.

16. So far as the other aspect of this ground of attack is concerned, it is true that fixation of quota as between the two groups may result in fortuitous incongruities in the manner suggested by the Appellants in their writ petition, when quotas are fixed between the two groups naturally the competition would be limited as amongst the members of the individual group which is being assailed by the Appellants as close circuit selection resulting in inequalities. It is suggested that 31 candidate from the Appellants group obtaining Higher percentage of marks may not get a promotion when the quota in their favour does not permit it while a candidate from the residue group obtaining lesser percentage of marks can well get a promotion on the quota; fixed in their favour. In our opinion, the consequence may as well be just the converse and the learned Judge in the trial Court, in our opinion, had rightly pointed out that such consequences by their very nature are fortuitous and the same cannot constitute a valid consideration for holding the reservation to be discriminatory. The particulars furnished by the Respondents in para. 12 of their affidavit, on the other hand, go to show that the quota had been so fixed that the maximum benefit goes in favour of the Appellants group even prior to additional 10% allotted to them in the year 1974. It would appear that for the years 1972-73, the Appellants representing only 10% of the total strength had in their favour 61 promotional posts while the members of the residue group representing more than 90% of the total strength had only 92 promotional posts in their favour. On the average while the Appellants group got 3.6 posts per hundred staff the members of the other group got only 0.54 posts per hundred staff. This being the position the benefit out of the reservation of the quota would normally ensure in favour of the Appellants. Moreover, it should also be noted in this connection that to give Appellants group a further benefit and in order to ameliorate the scope for further promotion in favour of the Appellants group additional 10% of the vacancies in the cadre of Engineering Supervisors was allotted in favour of the Appellants group in 1974 to

be filled up not on competition but merely on the basis of seniority cum fitness through a qualifying test only. Such being the position, in our opinion, preferential treatment, if any, had always been made in favour of the Appellants and not against them.

17. Moreover, the documents disclosed as further evidence in this appeal clearly go to show that reservation of quota as between the Appellants group and the residue group was introduced in 1966 at the instance of the Appellants group on their own seeking. We have referred hereinbefore to the Union's representation dated February 5, 1963, wherefrom it would appear that when their claim for the entire quota in favour of the Appellants group could not be conceded by the Government for reasons assigned by the Government and when the Union found logic in such reasons the employees through the Union demanded a reservation in favour of the Appellants group. It is thus a reservation in their favour and was first introduced which was never in existence from 1950 to 1966. It would, further, appear from the other documents disclosed in the said affidavit that the respective percentage of reservation between the two groups had always been fixed as a result of discussion and negotiation between the authorities and the employees and hence, cannot be considered to be in any manner arbitrary or unreasonable. That apart the very reasons which justify opening the avenue of promotion in favour of the members of the residue group also justify reservation of a quota in their favour. But for giving such employees a scope of promotion in this avenue, their scope for promotion would be so limited that the same may result in frustration amongst the employees who constitute 90% of the total strength leading to inefficiency and administrative difficulties. In such circumstances, we are not in a position to accept the second contention raised on behalf of the Appellants that reservation of quotas as between the two groups is in any way discriminatory or is violative of equality of opportunity in the matter of further promotion.

18. To support his contentions Mr. Dutt has relied on a number of decisions of the Supreme Court which, however, in our view, are distinguishable. Strongest reliance is placed on the decision of the Supreme Court in the case of Ramchandra Shankar Deodhar and Others Vs. The State of Maharashtra and Others, . In this case the Supreme Court first struck down the second proviso to Rule 1 of the Recruitment Rules therein under consideration inasmuch as the provision thereof was found to discriminate the promotee Mamlatdars in relation to the direct recruit Mamlatdars. It was found that after the direct recruit and promotee Mamlatdars were fully equated in all aspects, there could no longer be any justifiable reason for preferring the direct recruits in the matter of further promotion. The Supreme Court followed its earlier decisions in the cases of Mervyn Coutindo and Others Vs. Collector of Customs, Bombay and Others, and Raghunath Gopal Manjire and Another Vs. The Competent Authority and Others, . In this decision the Supreme Court struck down another part of the scheme of recruitment by promotion to the State cadre of Deputy Collectors from amongst Mamlatdars made on the basis of Divisional Select Lists which was found to

result in unfair inequalities. This decision, in our view, does not support the Appellants in the present case. Whether a particular provision when operated would result in any unfair inequality or not would depend on facts. Moreover, even if there be some inequality if the same is outweighed by a particular benefit of wider importance to be thereby achieved. Such inequality by itself would not justify striking down the provision. Here, in the present case, we have found there has been no discrimination as amongst the employees who are once equated. It is not the case of the Appellants that amongst them there is any discrimination. There is some differentiation between their group and the residue group. But such differentiation, on our findings made hereinbefore, is based on reasonable grounds which well justify the classification. Moreover, but for fortuitous consequences there is least chance of there being any unfair inequality as against the Appellants. The decision of the Supreme Court in the case of *The State of Gujarat and Another Vs. Shri Ambica Mills Ltd., Ahmedabad and Another*, relied on by Mr. Dutt instead of supporting him, supports the above view of ours. In the case of *Mohammad Shujat Ali and Others Vs. Union of India (UOI) and Others*, the Supreme Court merely observed that if graduate and non-graduate supervisors are once equated, there can no longer be any justification for preferring the graduates for further promotion. But on facts the Supreme Court found that they were never so equated and therefore, a preferential quota in their favour would not be violative of the right of equality. The decision in the case of *Gobinda Dutta Ray v. Ch. Controller of Imports and Exports* AIR 1969 S.C. 839 only supports the conclusions we have arrived at instead of supporting Mr. Dutt in his contentions. In this case it was clearly laid down that it was permissible to classify employees for the purpose of appointment or promotion and whether such classification was reasonable or not would depend on facts and circumstances of each case. It was, further, held that once such classification was justified what ratio between the different sources of such appointment or promotion would be adequate or fair would again depend on facts of each case and the requirement and needs of the post and unless the ratio is so unreasonable as to amount to discrimination the Court should not strike it down. We have, in this case, discussed all the aspects and found how the classification as also allotment of quotas were made on consideration of all aspects and are based on reasonable grounds. Such being the position, the impugned Rules can hardly be condemned as discriminatory. For reasons as aforesaid, both the contentions raised in support of this appeal fail. The appeal fails and is dismissed. There will be no order as to costs.

M.N. Roy J.

19. I agree.