
(2021) 03 CAT CK 0045

In the Central Administrative Tribunal

Case No : Original Application No. 798 Of 2020, 1865 Of 2019, Miscellaneous Application No. 1635, 1029 Of 2020, 2711 Of 2019

Vinod Sharma & Others

APPELLANT

Vs

University Grants Commission & Others

RESPONDENT

Date of Decision : 10-03-2021

Acts Referred:

Constitution Of India, 1949 — Article 14, 16

Citation : (2021) 03 CAT CK 0045

Hon'ble Judges : L. Narasimha Reddy, J; Mohd. Jamshed, Member (A)

Bench : Division Bench

Advocate : Ajesh Luthra, Balendu Shekhar, Gyanendra Singh, Manoj R. Sinha, A.K. Behera

Final Decision : Disposed Of

Judgement

L. Narasimha Reddy, J

1. The applicants joined the service of the University Grants Commission (UGC) in various positions such as LDC, Stenographer at different points of time. Over the period, they acquired promotions to different posts and as of now, they are holding the post of Under Secretary (US). Private Respondents 3 to 19 were appointed as Education Officers (EO) by way of direct recruitment.

2. The next promotion for the applicants as well as the private respondents is to the post of Deputy Secretary (DS). According to the relevant Rules, which are in force, the appointment to the post of DS is 75% by way of promotion and 25% by direct recruitment. The eligibility for promotion to the post of DS is stipulated as five years of continuous regular service as US. In column 11, it is further mentioned that the inter se seniority of the EO/US for promotion quota shall be reckoned on the basis of the continuous regular service in the respective grade.

3. The applicants contend that on account of the fact that the EOs are appointed en bloc at different points of time, it is so happening that they are not getting the

opportunity of being promoted to the post of US and the qualified seniors are left out. In this background, they filed this OA with a prayer to quash and set aside column no. 11 of the Recruitment Rules for the post of DS and to direct the respondents to amend the Rules, stipulating a separate percentage to each of the feeder cadre/grade, namely, US and EO. Other ancillary reliefs are also prayed.

4. The applicants contend that grouping of US and EO, without indicating any promotion is leading to serious hardship to them and such an approach would be violative of Article 14 and 16 of the Constitution of India. Various other contentions are also urged.

5. On behalf of respondents, separate counter affidavits are filed. They contend that the Recruitment Rules are in force, for the posts for the past several decades. It is also stated that for an US, promotion to the post of DS would be 4th or 5th forward step in their career, whereas for EO, it is only the first promotion. It is also their case that there were occasions where the posts of DS were en bloc occupied by the US, to the detriment of the EOs and the applicants cannot complain at that stage.

6. We heard Sh. Ajesh Luthra, learned counsel for the applicants in OA No. 798/2020 and Sh. A.K. Behera, learned counsel for the applicants in OA No. 1865/2019, Sh. Balendu Shekhar and Sh. Gyanendra Singh, learned counsel for the respondents in OA No. 798/2020 and Sh. Manoj R. Sinha, learned counsel for the respondents in both the OAs.

7. The applicants are holding the post of US whereas the respondent nos. 3-12 are appointed as EOs. For both the categories, next promotion is to the post of DS. Column 10 and 11 of the Recruitment Rules read as under:

"4. Deputy Secretary

(10) 75% by promotion and 25 % by direct recruitment

(11) Promotion : Under Secretary or Education Officer with 5 years continuous regular service in the grade. The inter se seniority of the Education Officer/Under Secretary for promotion quota shall be reckoned on the basis of continuous regular service in the respective grade."

8. From this, it is evident that the US on the one hand and the EO on the other, with five years of continuous regular service are made eligible for promotion. Since they are from different channels, their inter se seniority is to be reckoned on the basis of the continuous regular service in the respective grade.

9. It is not uncommon that for promotion to a particular post, there exist more feeder categories than one. In many cases, either a common seniority list with due interpolation is prepared or percentages are allocated for the respective feeder categories. That would enable an objective and equitable distribution of the posts. Fixation of the ratio would depend upon the cadre strength of the

respective posts. For one reason or the other, the respondents did not feel it necessary to stipulate any percentage as between the US and EO, in the context of promotion to the post of DS. The complaints may not have come on earlier occasions from one category or the other, or even if the complaints are made, they may not have been so vociferous. There is some force in what the applicants contend.

10. At the given point of time, one group or category may be promoted en bloc, depending upon the dates of appointment/promotion. It can be favourable to the US on some occasions, and to the EOs on other occasions. Further, in case of appointments to feeder category, be it US or EO, are to quite large number at a given point of time, the other category would be virtually stripped of the opportunity of being promoted till the officers so appointed are exhausted, for promotion. It is felt that the organization can bestow its attention on this issue and consider the feasibility of fixing the ratio between the US on the one hand and EO on the other hand for promotion. We do not propose to express any final view in this behalf. Decision need to be taken as to whether there must be any proportion at all and if so, the percentage, thereof, depending upon the strength of each of the cadres.

11. We, therefore, dispose of the OA directing the UGC to address the issue pertaining to the distribution of vacancies among the Under Secretary on the one hand and Education Officer on the other hand, for promotion to the post of Deputy Secretary, within a period of two months from the date of receipt of a copy of this order. They shall also invite objections or suggestions from the respective groups before taking the final decision.

There shall be no order as to costs.