

Supreme Court of India

Dr N.D. Mitra vs Union Of India on 23 May, 1994

Equivalent citations: 1994 AIR 2163, 1994 SCC (4) 474

Author: K Singh

Bench: Kuldeep Singh (J)

PETITIONER:

DR N.D. MITRA

Vs.

RESPONDENT:

UNION OF INDIA

DATE OF JUDGMENT 23/05/1994

BENCH:

KULDIP SINGH (J)

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KULDIP SINGH (J)

SAWANT, P.B.

CITATION:

1994 AIR 2163

1994 SCC (4) 474

JT 1994 (4) 206

1994 SCALE (2) 1136

ACT:

HEADNOTE:

JUDGMENT:

The Judgment of the Court was delivered by KULDIP SINGH, J.- Geological Survey of India (GSI) as an All India Service consists of six independent disciplines (cadres) namely, Geology, Geophysics, Geophysics (Instrumentation), Geochemistry, Drilling and Mechanical Engineering. Promotions, up to the rank of Deputy Director General, are confined to the respective disciplines. Above the Deputy Director General are two other ranks, Senior Deputy Director General and the Director General. Entry into the service as Group-A officer is through one of the disciplines. The seniority of the officers is maintained within their respective disciplines. The feeder post for the Deputy Director General, in each of the discipline, is that of Director. Since the upward journey within the discipline ends at the post of Deputy Director General, the post of Senior Deputy Director General is filled by considering the Deputy Directors General from all the disciplines. The Government of India maintains a seniority list of Deputy Directors General based on continuous length of service in the said post.

2.The question before the Central Administrative Tribunal (the Tribunal) was whether the seniority in the cadre of Deputy Directors General be determined on the basis of continuous length of service in the said post or on the basis of the length of service in the discipline. It was also urged before the Tribunal that the Departmental Promotion Committee (the DPC) should meet at one point of time in a year to fill all the vacancies of the Deputy Directors General falling vacant in various disciplines. The argument was that due to red-tape or administrative delays in the constitution of the DPCS, a person selected by an earlier DPC is bound to get higher seniority due to the fortuitous circumstance of one DPC having met earlier than the other. The Tribunal held that the seniority was rightly being determined on the basis of continuous length of service in the post of Deputy Director General. The Tribunal also rejected the contention regarding the simultaneous holding of the DPCS. The appellants who were the applicants before the Tribunal have come up to this Court against the judgment of the Tribunal.

3.Dr N.D. Mitra and Dr S.K. Acharyya - the appellants, on being selected by the Union Public Service Commission, joined the GSI as Geologist (Junior) in 1962, promoted as Geologist (Senior) in 1966 and to the post of Director (Geologist) in 1979. Dr N.R. Sengupta, Respondent 4, was appointed as Assistant Chemist in 1960, promoted as Chemist (Junior) in 1961, Chemist (Senior) in 1970 and Director (Geochem) in 1982. Shri D.B. Dimri, Respondent 5, was appointed as Geophysicist (Junior) in 1966, promoted as Geophysicist (Senior) in 1971 and Director (Geophysics Instrumentation) in 1981. Shri M.R. Nair, Respondent 6, was promoted to the post of Geophysicist (Junior) in 1960, promoted as Geophysicist (Senior) in 1966 and Director (Geophysics) in the year 1980. The posts of Geologist (Junior), Chemist (Junior) and Geophysicist (Junior) are of equal status though in different disciplines. The appellants contended before the Tribunal that they, having been promoted to the post of Director earlier than the respondents, should rank senior to them as Deputy Directors General. It was further contended by the appellants that they were eligible for consideration to the post of Deputy Director General in March 1988 but their cases were considered by the DPC held in December 1988 whereas the DPCs for other streams such as, Geochemistry, Geophysics and Geophysics (Instrumentation) were held in March and May 1988. Further, in the case of the appellants, the recommendations of the DPC were given effect to in the year 1989 whereas the recommendations in respect of the respondents were accepted and appointments made in June, August and November 1988. According to the appellants the delays in holding the meeting of the DPC and giving effect to its recommendations have resulted in depriving the appellants of their seniority above the respondents. As mentioned above, the Tribunal rejected the contentions of the appellants and dismissed their application.

4.We have heard learned counsel for the parties. We have noticed above that the promotions from the cadres of Geologist (Junior), Chemist (Junior) and Geophysicist (Junior) etc. up to the rank of Deputy Director General are made discipline-wise. An officer holding the post of Geologist (Junior) cannot be promoted as Chemist (Senior) or vice versa. Even Director (Geology) cannot be promoted as Deputy Director General (Geochemistry). The feeder post for promotion to the post of Deputy Director General in each discipline is the post of Director in the said discipline. For example, the feeder post for Deputy Director General (Geology) is the Director (Geology). Similar is the case with other disciplines. The normal rule for fixing seniority in a cadre is the length of service. In the absence of any statutory rules or executive instructions to the contrary, inter se seniority amongst

the Deputy Directors General has to be fixed on the basis of continuous length in the said post. As mentioned above the hierarchy of the six distinct separate disciplines comes to an end with the post of Deputy Director General. Thereafter the post of Senior Deputy Director General is common to all the disciplines. The Deputy Directors General, working in all the six disciplines, are entitled to be considered for promotion to the post of Senior Deputy Director General and as such it is necessary to maintain their inter se seniority. We see no infirmity in fixing the seniority amongst the Deputy Directors General on the basis of their length of service in the said post. We, therefore, uphold the finding of the Tribunal on this point.

5. We are, however, of the view that the Government of India must hold the meetings of the DPC at the same time to fill the vacancies of the Deputy Directors General available in various disciplines of the GSI. It is entirely for the Government to decide whether the DPC is to meet once or twice in a year. Whenever it is decided to hold the meeting of the DPC, it must be for all the disciplines where the vacancies of Deputy Director General are available to be filled. The recommendations of the DPCs should also be processed simultaneously and, ordinarily, appointments made at the same time. Persons promoted and appointed as Deputy Directors General on the same date can be given seniority either on the basis of the length of service on the post of Director or on the basis of the merit assigned by the DPC depending upon the statutory rules or the Government instructions on the subject. We are giving these directions to be operative prospectively. We are not inclined to interfere with the selections made by various DPCs in the present case.

6. Accordingly to the chart showing the career growth of the appellants and the respondents filed by Respondent 2, Dr N.R. Sengupta, Respondent 4 and Shri M.R. Nair, Respondent 6 have since retired from service. Shri D.B. Dimri, Respondent 5 was promoted and appointed as Deputy Director General on 17-8-1988. He was further promoted to the post of Senior Deputy Director General on 10-8-1993. Dr N.D. Mitra, appellant, was promoted and appointed to the post of Deputy Director General on 13-3-1988 and he was further promoted to the post of Senior Deputy Director General on 10-8-1993. Dr S.K. Acharyya, appellant, was promoted to the post of Deputy Director General on 9-3-1989. Promotion to the post of Director General, GSI is governed by the rules called the Geological Survey of India (Group A and Group B Posts) Recruitment (Amendment) Rules, 1993 (the Rules). These Rules have come into force with effect from 12-7-1993. The post of Director General is a selection post and is to be filled on the recommendation of the Departmental Promotion Committee consisting of Chairman/Member, Union Public Service Commission (Chairman) and Secretary Ministry of Mines (Member). Senior Deputy Directors General with two years' regular service in the grade or with five years' regular service in the grade of Senior Deputy Director General and Deputy Director General combined, are eligible to be considered for promotion to the post of Director General. Since the post of Director General is a selection post, the seniority in the cadre of Senior Deputy Director General/Deputy Director General is not of much relevance. We direct Respondents 1 to 3 to hold the meeting of the DPC under the Rules within eight weeks from today, for selection to the post of Director General, GSI from amongst the eligible Senior Deputy Directors General. The respondents shall keep the date of retirement of any of the eligible officers in view and preferably hold the meeting of the DPC before the said date.

7. The appeal is disposed of in the above terms. No costs.