

GOVERNMENT OF TAMIL NADU AND ANR.

v.

S. ARUMUGHAM AND ORS.

NOVEMBER 20, 1997

[SUJATA V. MANOHAR AND D.P. WADHWA, JJ.]

*Service Law :*

*Promotion Policy—Persons performing different functions and having different prospects and different avenues for promotion—Held, cannot be equated—Constitution of India, 1950—Articles 14 and 16.*

*Promotion Policy—Policy decision of the Government—Judicial Review—Allocation of posts among different offices of the State Revenue Subordinate Service for deputing Section Officers/Superintendents for training as Tehsildar which would enable them to get further promotion as Deputy Collector in the State Civil Service—Held, it was the policy decision of the Government—The Tribunal ought not to have given directions for formulating a new policy and a different quota—No Judicial Review of policy decision.*

**The post of Tehsildar used to be filled as per the Tamil Nadu Revenue Subordinate Service Rules either by promotion from Deputy Tehsildars or by deputation from amongst Section Officers in the Secretariat and the Superintendents working in the Board of Revenue of different offices which would enable them to earn further promotion as Deputy Collectors in the Tamil Nadu Civil Service. Respondents who were Superintendents working in the Office of the Director of Urban Land Ceiling and Urban Land Tax, challenged the GOMs No. 145 (Revenue) dated 29-1-1990 issued by the State Government increasing the quota of Superintendents working in various specified offices for deputation as Tehsildars in the Tamil Nadu Subordinate Service as they were not satisfied with the quota for which they were eligible. The Tribunal set aside the said GOMs and directed the appellants to review their scheme as far as the Secretariat staff was concerned and directed them to evolve a different scheme which would give the staff a wider perspective in all aspects of executive works. The Tribunal also directed all Revenue Officers to be clubbed into one group and for the manner of deputing officers from that group. It had also issued direction as to how such grouping could be made. The State thought that these directions issued by the Tribunal fell**

A within the domain of the policy decision of the Government and thus aggrieved by decision of the Tribunal filed the present appeals.

Allowing the appeals, this Court

B HELD : The Tribunal ought not to have directed the Government to change its policy. The Government has a right to frame a policy to ensure efficiency and proper administration and to provide suitable channels of promotion to officers working in different departments and offices. The appellants in their detailed affidavit before the Tribunal have given the history of the relevant provisions and the justification for those provisions in the interest of efficiency and proper administration. The Tribunal cannot substitute its own views for the views of the Government or direct a new policy based on the Tribunal's view of how the allocation should be made. The three groups which have been formed as far back as in 1977 for the purpose of allocation consist of officers performing different functions and having different prospects and different avenues of promotion.

D The allocation was made for the purpose of ensuring, first of all, that the Superintendents in the Office of the Board of Revenue, Land Revenue Branch got a reasonable allocation for deputation in order to improve their efficiency; and secondly, to give the Superintendents working in other offices, and in the Secretariat, an additional avenue of promotion. The allocation has also been made on the basis of the prospects of promotion available in various offices in the city. The allocation has been in force since 1977 and it has stood the test of time. If the preferential treatment of one source in relation to the other is based on the difference between the two sources, the recruitment can be justified as legitimate classification. This applies to the present case also. Therefore the scheme in question does not violate Article 14 or 16, nor it is arbitrary. The quota which should be fixed or the allocation which should be made for the purpose of deputing officers to Tamil Nadu Revenue Subordinate Service is basically in the domain of the executive. Unless there is a clear violation of any provision of the Constitution, the Tribunal ought not to have given directions for formulating a new policy and a different quota. [301-F-H; 302-A-B; 301-D-E; 302-B-D]

G *Indian Railways Service of Mechanical Engineers Association v. Indian Railways Traffic Service Association*, [1993] Supp. 4 SCC 473 and *Govinda Dattatray Kelkar v. Chief Controller of Imports & Exports*, [1967] 2 SCR 29, relied on.

H CIVIL APPELLATE JURISDICTION: Civil Appeal Nos. 385-89 of

1992.

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From the Judgment and Order dated 30.4.91 of the Tamil Nadu Administrative Tribunal, Madras, in O.A. Nos. 3631, 3975-76/90 and C.A. No.192 of 1991.

R. Mohan, M.A. Krishnamoorthy and J.B. Ravi, Rajsekaran for the Appellants.

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Ms. Asha Jain Madan, B.P. Singh and R.A. Perumal for the Respondents.

The Judgment of the Court was delivered by

**MRS. SUJATA V. MANOHAR, J.** These appeals arise from the order dated 30.4.1991 of the Tamil Nadu Administrative Tribunal in O.A. Nos. 1969, 3631, 3975, 3976, all of 1990 and O.A. No. 192 of 1991. All these applications had been filed by persons who were working as Superintendents in the office of the Director of Urban Land Ceiling and Urban Land Tax. They Challenged G.O.Ms. No.145 (Revenue) dated 29.1.1990 issued by the appellant-State of Tamil Nadu increasing the quota of Superintendents working in various specified offices for deputation as Tehsildars in the Tamil Nadu Revenue Subordinate Service since they were not satisfied with the quota for which they were eligible. The Tribunal has set aside G.O.Ms. No.145 (Revenue) dated 29.1.1990 and has directed the appellants to review their scheme as far as the Secretariate staff is concerned and has directed them to evolve a different scheme which would give the staff a wider perspective in all aspects of executive works, which, according to the Tribunal, would be more useful to the staff in the Secretariat working in different departments. The Tribunal has also directed all Revenue Officers to be clubbed into one group and for the manner of deputing officers from that group it has also given directions as to how such grouping could be made. The decision of the Tamil Nadu Administrative Tribunal has been challenged by the appellants before us.

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Those who have been deputed as Tehsildars become eligible for further promotion as Deputy Collector in the Tamil Nadu Civil Service. The post of Tehsildar is governed by the Tamil Nadu Revenue Subordinate Service Rules. Recruitment to this post is from two sources—(1) by promotion from Deputy Tehsildars in the Tamil Nadu Revenue Subordinate Service or (2) by deputation from amongst Section Officers in the Secretariat and the Superintendents in the office of the Board of Revenue (Land Revenue), Board of Revenue (Food Production), Board of Revenue Settlement of Estates, the Commissioner of Civil Supplies, the Director of Service Settlements, the Director of Harijan and

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A Tribal Welfare, the Director of Backward Classes, the Director of Rehabilitation, the Commissioner of Agricultural Income-tax, the Director of Urban Land Ceiling and Urban Land Tax and the Board of Revenue (Land Reforms), who had rendered satisfactory service as such for two years and who are otherwise qualified for appointment as Tehsildar. The Board of Revenue was abolished with effect from 1.12.1980 by reason of the Tamil Nadu Board of Revenue (Abolition) Act of 1980. Prior to its abolition the Board of Revenue comprised the following branches:-

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- (1) Land Revenue including excise;
  - (2) Commercial Taxes;

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  - (3) Food production;
  - (4) Settlement of Estates;
  - (5) Transport;

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  - (6) Agricultural income-tax;
  - (7) Urban Land Ceiling and Urban Land Tax; and
  - (8) Land reforms.

E The Land Revenue branch of the Board of Revenue enjoyed a pre-eminent position because the Land Revenue branch was in overall control of the entire Revenue Department, while the other branches had specific functions and, therefore, had a limited field of activity. After the abolition of the Board of Revenue the Land Revenue branch has been replaced by the office of the Special Commissioner and Commissioner of Revenue Administration. The other branches also have become separate. Some sections are headed by

F Commissioners, such as, the Commissioner of Agricultural Income-tax, the Commissioner of Land Administration and so on. The branch of Urban Land Ceiling and Urban Land Tax has been replaced by the Directorate of Urban Land Ceiling and Land Tax.

G Under G.O.Ms. No. 276 (Revenue) dated 31.1.1950 the appellants decided that the Superintendents of the Secretariat and the Superintendents of the Board of Revenue who were qualified for appointment as Tehsildars in the Madras Revenue Subordinate Service under the existing rules shall, instead of being appointed to the Madras Revenue Subordinate Service as was then being done, be deputed to undergo training in the districts for a total period

H of three years in the Madras Revenue Subordinate Service, namely, six months

as Deputy Tehsildars, six months as Stationary Sub-Magistrate and two years as Tehsildars. They should then be reverted to the Secretariat or the Board of Revenue, as the case may be, and be considered for inclusion in the Deputy Collectors' list. The G.O.Ms. further stated that in order to safeguard the prospects of the men in the mofussil the deputation of the city-men working in these offices should be restricted to 3 or 4 a year. The number was subsequently restricted to 3 per year. Under G.O.Ms. No. 1154 (Revenue) dated 16.4.1959 the number of Superintendents to be so deputed as Tehsildars was increased from 3 to 6 per year. By another G.O.Ms. No. 2584 (Revenue) dated 4.9.1959 the Government reserved two posts out of six for the Revenue Secretariat on the ground that the training of Superintendents of the Revenue Secretariate in the Madras Revenue Subordinate Service will increase the standard of efficiency in the Revenue Secretariat which is concerned with most of the subjects that are dealt with by Tehsildar/Deputy Tehsildar in the district.

By G.O.Ms. No. 2982 (Revenue ) dated 28.10.1968 the number to be sent on deputation was once again increased from 6 to 8. It was further decided that as a convention, 2 vacancies shall be reserved for the Board of Revenue, Land Revenue branch. By this G.O.Ms. Superintendents in the Food Production branch, Board of Revenue and Superintendents in the Directorate of Harijan Welfare were also included to accommodate a wider zone of selection. In the Board's proceedings dated 22.2.1975 one post was reserved for the Superintendents of the Food Production branch in the Board of Revenue.

In G.O.Ms.426 (Revenue) dated 24.2.1975 it was mentioned that the facility of inclusion in this list is available to the staff employed in the office of the Board of Revenue specifying the different branches which were so eligible. For the first time, the staff of the urban Land Ceiling and Urban Land Taxes branch was also included.

Under G.O.Ms.No. 299 (Revenue) dated 10.2.1977 some more offices were brought within the purview of the scheme. The total number of deputationists, was increased to 10 and the allocation was as follows:-

- 3- Departments of the Secretariat;
- 3- Board of Revenue (Land Revenue)
- 4- Other City Offices.

This G.O.Ms. sets out in detail the reasons for such allocation. It also sets out that there will be difficulties in preparing a common list of Superintendents

A in the order of seniority amongst different Section Officers of the Secretariat and the Superintendents of other offices and, therefore, they have prescribed the quota. It is necessary to note that under this G.O.Ms. in 1977 itself the Land Revenue branch of the Board of Revenue was given a specific allocation of three posts while the other City offices were, between them, given an allocation of 4 posts.

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This allocation was revised by G.O.Ms. No.145 (Revenue) dated 29.1.1990 which is under challenge before us. The reason why a fresh G.O.Ms. was required to be issued was that the Government decided to increase the number of posts from 10 to 16 for the City list because of the overall expansion

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in the posts of Tehsildars. This G.O.Ms. retains the classification which was in existence right from 1977 under the G.O.Ms. of 10.2.1977. But in the departments of the Sectarariat the original allocation of 3 posts has been increased now to 5 posts. In the erstwhile Board of Revenue (Land Revenue branch) which originally had 3 posts under the G.O.Ms. of 1977 these posts have now been increased to 5. In view of the abolition of the Board of

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Revenue these 5 posts have gone to the office of the Special Commissioner and Commissioner of Land Revenue Administration which has replaced the Land Revenue branch of the Board of Revenue. The other city offices have now been allotted 6 seats instead of 4 seats.

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In their affidavit which was filed by the appellants before the Tamil Nadu Administrative Tribunal the appellants have explained in detail the ratio of such allocation. They have pointed out that the Special Commissioner and the Commissioner of Land Revenue Administration, occupies a special place in this programme because it is this Department (originally the Land Revenue branch of the Board of Revenue) which handles the overall control of the

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entire Revenue Department. Training as Deputy Tehsildars/Tehsildars is of special relevance for the efficient functioning of this Department. The appellants have also pointed out that the avenues for promotion in the office of the Special Commissioner and Commissioner of Land Revenue Administration are more limited than the avenues of promotion in all other departments. In their affidavit they have set out in detail the avenues of promotion available

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in each of the offices which are governed by the scheme in order to substantiate this submission.

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The contention of the Superintendents working in the Directorate of Urban Land Ceiling and Urban Land Tax appears to be that they also originally formed a part of the Board of Revenue and, therefore, they should not be clubbed with the other city offices under this G.O.Ms. They should be

clubbed with the Superintendents in the office of the Special Commissioner and Commissioner of Land Revenue Administration. They are forgetting that even under the G.O.Ms. of 1977 separate allocation of 3 seats was only for the Land Revenue Branch of the Board of Revenue and not for all the branches of the Board of Revenue. In 1977 they had been clubbed along with other city offices for the allocation of seats. If the reasoning of the respondents is to be accepted the other offices which also formed a part of the original Board of Revenue would also have to be similarly treated. There is no justification at all for any grievance in this connection because right from the beginning of the scheme, it has been clearly provided that the original Land Revenue branch of the Board of Revenue which is now replaced by the Special Commissioner and the Commissioner Land Revenue Administration, had a special nexus with the functioning of the office of the Tehsildar/Deputy Tehsildar; and the training they would obtain on deputation would be directly relevant for the purpose of improving their efficiency in the parent department. It is also clear that at no point of time there was any allocation made in proportion to the number of Superintendents in any office. The allocation was made for the purpose of ensuring, first of all, that the Superintendents in the office of the Board of Revenue, Land Revenue branch got a reasonable allocation for deputation in order to improve their efficiency; and secondly to give to Superintendents working in other offices, and in the Secretariate, an additional avenue of promotion. The allocation has also been made on the basis of the prospects of promotion available in various offices in the city. The allocation has been in force since 1977 and it has stood the test of time.

The Tribunal itself came to the conclusion that combining all the departments and having a common seniority list was neither justified nor feasible. But it has given directions for a different kind of allocation and a different scheme. These directions pertain to policy matters. The Tribunal ought not to have directed the Government to change its policy. The Government has a right to frame a policy to ensure efficiency and proper administration and to provide suitable channels of promotion to officers working in different departments and offices. In *Indian Railway Service of Mechanical Engineers Association and Ors. v. Indian Railway Traffic Service Association and Anr.*, [1993] Supp. 4 SCC 473, this Court reiterated that the correctness of a policy should not be questioned by the Tribunal. The appellants in their affidavit before the Tribunal have given in detail the history of these provisions and the justification for these provisions in the interests of efficiency and proper administration. The Tribunal cannot substitute its own views for the views of the Government or direct a new policy based on

- A the Tribunal's view of how the allocation should be made. The three groups which have been formed as far back as in 1977 for the purposes of allocation consist of officers performing different functions and having different prospects and different avenues of promotion. They cannot be equated for the purpose of Article 14 or 16. In the case of *Govind Dattatray Kelkar & Ors. v. Chief Controller of Imports & Exports & Ors.*, [1967] 2 SCR 29, this Court held that
- B the concept of equality in the matter of promotion can be predicated only when promotees are drawn from the same source. If the preferential treatment of one source in relation to the other is based on the difference between the two sources, the recruitment can be justified as legitimate classification. This reasoning directly applies in the present case. Therefore, the scheme does not
- C violate Article 14 or 16, nor is it arbitrary. The quota which should be fixed or the allocation which should be made for the purpose of deputing officers to the Tamil Nadu Revenue Subordinate Service is basically in the domain of the executive. Unless there is a clear violation of any provision of the Constitution, the Tribunal ought not to have given directions for formulating a new policy and a different quota.
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The impugned order of the Tribunal is, therefore, set aside and the applications filed before the Tribunal are dismissed. The appeals are allowed accordingly with costs.

R.K.S.

Appeals allowed.