

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No. 3128 OF 2002

New Delhi, this the 3rd day of September, 2003

HON'BLE SHRI SHANKER RAJU, JUDICIAL MEMBER
HON'BLE SHRI R.K. UPADHYAYA, ADMINISTRATIVE MEMBER

1. Shri M.Rajakumar,
Data Processing Assistant (Gr.A)
National Crime Records Bureau
East Block-7, R.K.Puram,
New Delhi-110066
2. Shri B.M.Badoni,
Data Processing Assistant (Gr.A)
National Crime Records Bureau
East Block-7, R.K.Puram,
New Delhi-110066
3. Ms.Prema.R.,
Data Processing Assistant (Gr.A)
National Crime Records Bureau
East Block-7, R.K.Puram,
New Delhi-110066
4. Shri K.P.Gopinath
Data Processing Assistant (Gr.A)
National Crime Records Bureau
East Block-7, R.K.Puram,
New Delhi-110066
5. Shri Suresh Kumar,
Data Processing Assistant (Gr.A)
National Crime Records Bureau
East Block-7, R.K.Puram,
New Delhi-110066
6. Shri V.R.Jayan,
Data Processing Assistant (Gr.A)
National Crime Records Bureau
East Block-7, R.K.Puram,
New Delhi-110066
7. Shri B.Venkatesan,
Data Processing Assistant (Gr.A)
National Crime Records Bureau
East Block-7, R.K.Puram,
New Delhi-110066
8. Shri D.C.Pandey,
Data Processing Assistant (Gr.A)
National Crime Records Bureau
East Block-7, R.K.Puram,
New Delhi-110066

....Applicants

(By Advocate : Shri V.S.R.Krishna)

Versus

Union of India, through

Shri V.S.R. Krishna

1. The Secretary,
Ministry of Home Affairs,
Government of India
North Block,
NEW DELHI.
2. The Director
National Crime Records Bureau,
East Block-VII,
R.K.Puram,
New Delhi-110067

.....Respondents

(By Advocate : Shri R.P. Agarwal)

ORDER (ORAL)

SHRI R.K. UPADHYAYA, ADMINISTRATIVE MEMBER

This application under section 19 of the Administrative Tribunals Act, 1985 has been filed seeking quashing of the order dated 24.5.2002 (Annexure A-1) informing the applicants that their promotion to the post of Data Processing Assistant(DPA) Grade-B could be considered as and when vacancies arise and the recruitment rules are finalised.

2. It is stated by the applicants that they joined the National Crime Records Bureau (NCRB) originally as Sub-Inspectors, on deputation from the different Ministries/Departments. They were subsequently absorbed as Sub-Inspectors in the NCRB on 16.7.1993. The applicants claim that they were engaged in Electronic Data Processing(EDP) ever since their appointments. It is stated by the applicants that on account of 4th Central Pay Commission(CPC) regarding the uniform pay scales in the organisation of the existing EDP post OM dated 11.9.1989 (Annexure A-2) was issued. There was a stipulation in this OM itself to the following effect :-

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"The qualifications etc. indicated against each grade in para 1 above are only illustrative and Departments/Ministries will carry out the review of existing EDP posts in accordance with recruitment rules as already prescribed by them. To ensure uniformity in regard to Recruitment Rules for the EDP posts, Department of Personnel & Training is being requested to devise model Recruitment Rules which can be adopted by Ministry/Department."

3. In view of this OM dated 11.9.1989, the Ministry of Home Affairs issued the order dated 6.5.1991 regarding the revision of the pay scales and re-designation of various EDP posts in the NCRB. As per said order dated 6.5.1991, the Sub-Inspectors in the scale of Rs.1320-2040 were re-designated as Data Entry Operator (DEO) grade 'D' in the scale of Rs. 1500-2660. Such posts as per this letter with the other posts, 57 in number, were re-designated as DPA grade 'A' in the same scale of Rs.1600-2660. It was also envisaged that the pay of the existing incumbents in the revised scale of pay will be fixed as per FR 23 read with FR 22(A)(ii). By another office order dated 2.8.1991, the respondents sanctioned 59 posts of DPA grade 'A' in the pay scales of Rs.1600-2660 and 40 posts of DPA grade 'B' in the pay scale of Rs.2000-3200 by this office order dated 2.8.91, it was further notified as follows :-

"The existing employees who opt for induction into EDP cadres and found suitable will be given benefit of these scales with effect from 11th September 89 or subsequent dates as the case may be. Those who opt for induction into EDP scales should clearly understand that

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they will have to relinquish all their claims, if any, of being Police Personnel, e.g., rent-free accommodation, uniform allowance, ration money etc.

Those who desire to be considered for induction into the EDP cadres may please send their option and particulars in the prescribed proforma latest by 15th August, 1991. The induction will be subject to their qualifying the tests as may be prescribed and after verification of their educational qualifications from original Certificates. Option once exercised will be irreversible. Inter-se seniority of persons inducted into EDP Cadre will be decided by a Committee on the basis of well-established principles."

4. The claim of the applicants is that they exercised their options for absorption in the new EDP cadre in the NCRB. They have completed the requisite service of four years on regular basis and are entitled for promotion as DPA Grade-B from the year 1997. In the year 1997, there were 33 vacancies out of 40 sanctioned posts available in the posts of DPA Grade-B in the NCRB. Even though the applicants were eligible for promotion but no promotion order was made. The applicants were given adhoc promotion only in the years 1996 and 1997 as could be seen from order dated 20.2.96 and 8.9.97 (Annexure A-5 and A-6 respectively). Some more adhoc promotions were made

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by orders dated 19.6.1998 (Annexure A-7) and 10.3.2002 (Annexure A-8). In spite of the applicants being eligible and there being vacancies available the applicants were not given even the adhoc promotion to the post of DPA grade 'B'. Aggrieved with that the applicants made representation. The impugned orders dated 24.5.2002 has been issued by the respondents informing the applicants that the promotion to the post of DPA grade 'B' will be made as and when vacancies arise and the recruitment rules are finalised. The learned counsel of the applicants invited attention to the order dated 20.5.2002 by which 20 posts of DPA grade 'B' have been abolished on the basis that these posts were lying vacant for more than one year. The learned counsel of the applicants stated that the order of abolition of the said posts had been issued only four days before the intimation of the order on representation seeking promotion to the post of DPA grade 'B' on 24.5.2002. On these facts of the case the learned counsel of the applicants urged that the reliefs claimed may be allowed and the respondents be directed not to abolish the posts of DPA grade 'B' and consider the promotion of the applicants. Whether the recruitment rules are finalised or not is immaterial as model recruitment rules of DCP&T's OM dated 14.10.1998 (Annexure A-11) could be followed. This model recruitment rules have been followed so far. The learned counsel of the applicants stated that this very model recruitment rules have been followed by the respondents for the posts being filled up by direct recruitment. Therefore, the same could have been followed for promotion also. The learned counsel further made a

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grievance that the applicants have opted for absorption with the hope of their bright future ignoring all other perquisites in his parent cadre. Now, the action taken by the respondents is prejudicial to their interest. Therefore, they should be directed to grant the reliefs as claimed.

5. The respondents have filed the reply and opposed the reliefs claimed by the applicants. It is an admitted fact that the applicants joined as Sub-Inspectors on deputation in the year 1990 and were absorbed as Sub-Inspectors in July, 1993. It is also an admitted fact that they had been engaged in the work of EDF in the NCRB. According to the respondents the recruitment rules for the posts of DPA grade 'B' have not been framed so far. The respondents have clarified that it is not factually correct to say that the respondents have not held DPC during the last 5 years as the respondents have held DPCs during the years 1996, 1997, 1998 & 2000 for filling up the 16 vacancies by promotion on adhoc basis. As per the notified recruitment rules, 33-1/3 % vacancies are to be filled by promotion, failing which by transfer on deputation. Out of 40 sanctioned posts in the grade of DPA grade 'B' only 4 posts were to be filled on regular basis. but due to ban of the Government on the recruitment, 20 posts could not be filled up by direct recruitment and these posts had to be abolished. The respondents contended in the absence of new recruitment rules, the old recruitment rules of 1988 for the post of Inspectors have to be followed

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for filling up the said posts. The posts were abolished because they were filled up by the deputationists.

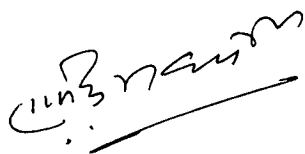
6. In the rejoinder filed by the applicants the same pleas as have been taken in the OA have been reiterated. It has been stated that the model recruitment rules being in existence for filling up the posts of DPA grade 'B', the respondents could have followed the provisions of said model recruitment rules. The learned counsel of the applicant also stated that if the old recruitment rules of 1988 are to be followed for the purpose of regular promotion, there is no basis for following or not following that rules at all. He also pointed out that 20 posts of DPA grade 'B' have been abolished by order dated 20.5.2002 just to show that the claims of the applicants would not be allowed for want of vacancies.

7. We have heard the learned counsel of the parties and have perused the materials available on record carefully. It is undisputed that the applicants have all along been working in the DPA unit of the respondents initially. Subsequently on being absorbed, as a model employer the respondents should have taken care of the future prospects of the applicants. It is stated that the applicants opted for the posts of DPA for better prospects of promotion ignoring other perquisites in their parent cadre. We are not satisfied with the reply filed by the respondents that as there was ban of the Government on the recruitment, promotions were not made even though the vacancies of DPA grade 'B' were available during

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the years 1996, 1997, 1998 & 2000 and thereafter. The respondents cannot be allowed to state that they had not followed the old recruitment rules of 1988 for adhoc promotion. The applicants have rightly made a grievance that the said recruitment rules could have been followed by the respondents for regular promotions also. The learned counsel of the applicants rightly stated that there was no need to wait for revised recruitment rules as model recruitment rules for grade 'A' & 'B' posts in the DPA as notified by the DOP&T's OM dated 14.10.1998 (Annexure A-11) already existed. In view of these facts, we direct the respondents to take steps to revive the abolished posts of DPA grade 'B' if those posts are still to be created keeping in view the requirements of the Department. As soon as those posts are revived, the applicants be considered for promotion if they are otherwise eligible and are within the zone of consideration in accordance with the model recruitment rules of the DOP&T's dated 14.10.1998 and if their own recruitment rules are not yet notified. This exercise must be completed within 4 months from the date of receipt of a copy of this order.

2. In the result this OA is partly allowed without any order as to costs.



(R.K. UPADHYAYA)
ADMINISTRATIVE MEMBER



(SHANKER RAJU)
JUDICIAL MEMBER