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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A.1674/2002  
M.A.1339/2002

New Delhi this the // th day of February, 2003

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J).  
Hon'ble Shri Govindan S. Tampi, Member (A).

1. ALL-INDIA ASSOCIATION OF ASSISTANT  
SUPERINTENDENT (1),  
NSSO, FOD,  
REP: THRO' ITS GENERAL SECRETARY,  
SHRI K.V.B. MURTHY,  
16-2-21, LAKSHMANA RAO STREET,  
PURNANDAMPET, VIJAWADA-5210 003.  
ANDHRA PRADESH.

2. SHRI C.M. TIWARY,  
ASSTT. SUPERINTENDENT,  
NSSO, FOD,  
LEVEL-5, EAST BLOCK 6,  
R.K. PURAM, NEW DELHI-66.

... APPLICANTS

(By Advocate Shri V.K. Rao )  
VERSUS

1. UNION OF INDIA,  
THROUGH ITS SECRETARY,  
MINISTRY OF STATISTICS & P.I.,  
SARDAR PATEL BHAWAN,  
NEW DELHI.

2. DIRECTOR,  
CADRE CONTROLLING AUTHORITY,  
ISS & SSS, MIN. OF STATISTICS & P.I.,  
SARDAR PATEL BHAWAN,  
NEW DELHI-110001.

3. ADDL. DIRECTOR GENERAL,  
NSSO, FOD, LEVEL 5, 6, 7,  
EAST BLOCK, R.K. PURAM,  
NEW DELHI-110001.

4. SECRETARY,  
MINISTRY OF FINANCE, NORTH BLOCK,  
NEW DELHI-110001.

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5. Secretary,  
DOP&T, North Block,  
New Delhi-110001. ... Respondents.

(By Advocate Shri K.C.D. Gangwani, senior counsel)

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J).

This application has been filed by two applicants, namely (1) All India Association of Assistant Superintendent (1), NSSO, FOD and (2) Shri C.M. Tiwary, Assistant Superintendent, NSSO, FOD, R.K. Puram, New Delhi. They have also filed MA 1330 of 2002. We have heard the learned counsel for both the parties on O.A. and M.A. The applicants are aggrieved by the O.M. dated 30.1.2002 issued by the respondents by which they contend that the respondents intend to include four grades in the Subordinate Indian Statistical Service instead of two grades which were recommended by the 5th Central Pay Commission. They have also submitted that this has resulted in the respondents creating two different Rules being Subordinate Statistical Service (Group 'B' Gazetted) Rules, 2002 and Subordinate Statistical Service (Group 'C') Rules, 2002 by bifurcating four grades.

2. The two applicants have filed M.A. 1330/2002, praying for filing a joint application under Rules 4 and 5 of the Administrative Tribunals Act. They have

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submitted that the applicant no. 1 is an Association and applicant no. 2 is a member of the Association and there are several other members of the Association whose grievances and prayers are identical. In the O.A., the applicants state that they are praying for a direction to the respondents to amend the O.M. dated 30.1.2002 and the aforesaid Notifications to include only two grades instead of four.

3. The respondents in their reply have taken a preliminary objection that the Association cannot raise a grievance on behalf of all the employees of categories ~~123~~ of Assistant Superintendents. According to them, about 180 such persons have already exercised their options against which the present application has been filed which has also been referred to by Shri V.K. Rao, learned counsel during the hearing. Shri K.C.D. Gangwani, learned senior counsel has, therefore, vehemently contended that it is incorrect to say that all the members of the Association/Applicant No.1 are aggrieved by the decision taken by the respondents. He has, therefore, vehemently opposed the prayers in MA 1330 of 2002.

4. In the light of the aforesaid preliminary objection raised by the respondents on the maintainability of MA 1330 of 2002 filed by the applicants, we have heard Shri V.K. Rao, learned counsel

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for the applicants and Shri K.C.D. Gangwani, learned senior counsel for the respondents. Firstly, it is noticed that MA 1330 of 2002 has been filed by the applicants under Rules 4 and 5 of the Administrative Tribunals Act for permission to file a joint application. The reference to Rules 4 and 5 of the Administrative Tribunals Act is incorrect and presumably what the applicants intend to refer to is Rule 4 (5) (b) of the Central Administrative Tribunal (Procedure) Rules, 1987, issued under the provisions of Sections 35 and 36 of the Administrative Tribunals Act, 1985. However, the settled law is that mere wrong reference to the empowering provisions of law/rules will not defeat the purpose. Therefore, we have considered MA 1330 of 2002 under the correct provisions of the Central Administrative Tribunal (Procedure) Rules, 1987, as referred to above. During the hearing, the respondents have submitted that out of the total strength of over 1000 officers of the applicant no. 1 Association, about 180 Assistant Superintendents have already exercised their options against which the present O.A. has been filed. In the circumstances, it is incorrect to state that the applicants are espousing the cause of all the members of the Association. Shri V.K. Rao, learned counsel has submitted that he may then be allowed some time to make suitable amendments so as

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to implead only those who have not given the options to the respondents or who still feel aggrieved by the aforesaid orders passed by them. We are unable to agree with this contention, having regard to the provisions of Rule 4 (5) (b) of the Central Administrative Tribunal (Procedure) Rules, 1987. Under the provision of this Rule, permission may be granted to an Association representing the persons desirous of joining in a single application provided, however, that the application shall disclose the class/grade/categories of persons on whose behalf it has been filed provided that at least one affected person joins such an application. Admittedly, the applicant no. 1 Association represents both the types of persons, that is those who are aggrieved or otherwise. Therefore, in the facts and circumstances of the case, MA 1130 of 2002 is rejected.

5. In the above view of the matter, the O.A. also fails and is dismissed with liberty to the applicants in accordance with law. No order as to costs.

(Govindan S. Tampi)  
Member (A)

SRD

(Smt. Lakshmi Swaminathan)  
Vice Chairman (J)