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Central Administrative Tribunal
Principal Bench

OA No.1959/2002
MA No. 1578/2002
MA No. 1579/2002

New Delhi, this the 23rd day of August, 2002.

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J)
Hon'ble Shri S.A.T.Rizvi, Member (A)

1. Arun Kumar Dubey
S/o Shri Chandra Bhan Dubey
R/o Krishna Nagar (Bhagu)
Opposite Check Post
Vijay Nagar By Pass
Ghaziabad (UP).
2. Arjun Lal
S/o Shri Ramnath
R/o D-613, Tigri
Sector - 1st
Dr. Ambedkar Nagar
New Delhi-110062.
3. Mr. Rajesh Kumar Pawar
S/o Late Shri Mohar Singh Pawar
R/o 90-D, Sector-4
DIZ Area, Baba Khadag Singh Marg
New Delhi-110001.
4. Shri Ajay Rawat
S/o Shri Hayat Singh Rawat
147, Pocket 13, Dwarka
New Delhi-110045.
5. Shri Hamesh Kumar
S/o Shri ~~Ram~~ Gopal
F-63 C, Tilak Nagar
New Delhi-110018.
6. Dinesh Kumar
S/o Shri Angnoo Ram
R/o 16/433E, Bapa Nagar
P.S.Road, Karol Bagh
New Delhi-5.
7. Raj Pal Singh
S/o Late Shri Sohan Pal Singh
R/o 671, New Shivpuri (Kasturi Sadan)
Opposite Jattya Hospital
Khurja, Distt.-Bulandshahar (UP).

.....Applicants.

(Ms. Amita Sahani with Shri Shyam Babu, Advocates)

Versus

1. Union of India
through Secretary
Cadre Control Authority
Ministry of Statistics &
Programme Implementation
Sardar Patel Bhawan
New Delhi.
 2. Secretary
Ministry of Finance
Implementation Cell
Bhikaji Cama Place
New Delhi.
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3. Director General
Central Statistical Organisation
Ministry of Statistics &
Programme Implementation
Sardar Patel Bhavan, New Delhi.

ORDER (Oral)

By Shri S.A.T.Rizvi, Member (A)

Seven Junior Investigators of the Central Statistical Organisation (CSO) are before us with the prayer which runs as under:-

- i) Set aside the subordinate statistical service as formulated by the respondents.
- ii) restrain the respondents from giving effect to the orders of creation of subordinate statistical service as formulated by them vide OM dated 30.1.2002 and published in the gazette notification dated 12.2.2002.
- iii) Direct the respondents to accept the recommendation of the Vth Pay Commission as suggested and create the subordinate Statistical Service consisting of only Junior Investigators/ Statistical Assistant in the pay scale of Rs.5000-8000/- and senior Statistical Investigators / Assistant in the pay scale of Rs.6500-10,500/- of various Ministries and Deptts.
- iv) Direct the respondents to exclude from the Subordinate Statistical service the NSSO (FOD) which has been separately dealt with by the Vth Pay Commission in its para 81.15 and 81.16 of the recommendations.
- v) stay the operation of the Office Memorandum dated 26.03.2002 pursuant to the meeting dated 18/19.03.2002.
- vi) Consequently direct the respondents to hold the DPC for the applicants and consider them for promotion to the post of Sr. Investigator in the scale of Rs.6500-10750/-.
- vii) Direct the respondents to make the pay scale of the statistical investigators of Gr.II and Gr.I Investigator on the timescale basis i.e. time bound manner as recommended by the Vth CPC.
- viii) Such other and further order (s) as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances may also be passed in favour of the applicants and against the respondents.

2. During the currency of the 4th Central Pay Commission (CPC) the Jr. Investigators of the Central Statistical Organisation (CSO) in the pay grade of Rs.1400-2300/- were eligible for next promotion to the post of Br. Investigator in the pay grade of Rs.1640-2900/-. In another organisation called NSSO under the same Ministry, the holders of the post in the pay grade of Rs.1400-2300/- were termed as Investigators and they were eligible for promotion to the next higher grade

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of Assistant Superintendent in the pay grade of Rs.1600-2660/- and thereafter further upto the post of Superintendent in the pay grade of Rs.1640-2900/-. The learned counsel appearing on behalf of the applicant submits that due to the constitution of the subordinate Statistical Services (SSS) by Office Memorandum dated 30.01.2002, the chances of promotion of Jr. Investigators of the CSO have been adversely affected. According to the new dispensation made effective by the aforesaid OM, those holding posts in the pay grade of Rs.1400-2300/-, to be known as statistical investigator Gr.IV will have first to look for promotion to the non-functional grade of statistical investigator Gr.III in the pay scale of Rs.1600-2660/- and only thereafter they can look forward to getting regular promotion to the post of Statistical Investigator Gr.II in the pay gr. of Rs.1640-2900/-.

3. The applicants chances will be adversely affected, according to the learned counsel for two reasons. Firstly the applicants will no longer be eligible to get promoted regularly to the pay gr. of Rs.1640-2900/- directly as used to be the case during the currency of the 4th CPC. Secondly, on account of a very substantial increase in the cadre strength made possible by the inclusion therein of the NSSO staff, the promotional chances hitherto available to the applicants will recede.

4. It appears that on a consideration of the recommendations made by the 5th CPC, the government decided to constitute ~~two~~ different services, one each for Gr.B and Gr.C. All the posts involving statistical functions available in the various Ministries/Departments of the government were to be included and made part of the aforesaid services. Instead of a number of designations in place during the currency of the 4th CPC, the Government also decided to introduce just 4 grades of Statistical Investigators, namely, SI Gr.I, SI Gr.II, SI Gr.III and SI Gr.IV, respectively placed in the pre-revised pay grades of Rs.2000-3500/-, Rs.1640-2900/-, Rs.1600-2660/- and Rs.1400-2300/-. After issuing the aforesaid OM dated 30.01.2002 the government has since

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notified the Subordinate Statistical Service (Group B Gazetted) Rules 2002 and Subordinate Statistical Service (Group C) Rules 2002. Each one of these rules has ^{been} notified on 12.2.2002. The aforesaid arrangements have been made in accordance with the policy decision taken by the Government of India after considering the recommendations made by the 5th CPC.

5. A policy decision taken by government in service matters can be questioned only on the basis of arbitrariness and on the ground of violation of article 14 and 16 of the Constitution. Subject to this, the terms and conditions of Government servants can be changed, even to their disadvantage by means of a policy decision taken by the government. The terms and conditions of appointment of a few constitutional functionaries cannot, however, be altered to their disadvantage. The government servants are not placed in that category and they constitute a separate category. In this view of the matter, the aforesaid arrangements including the aforesaid rules notified on 12.2.2002 cannot be questioned even if it is assumed for a moment that the applicants have been put to some disadvantage and the chances of their promotion have receded.

6. In our view, apart from the applicants working in the CSO, others working in several other Ministries/Departments/Organisations also participating in the aforesaid new arrangements can also claim that they too have been put to disadvantage. A perusal of the list of participating Ministries/Departments/Organisations shows that as many as forty organisations have been lumped together for the purpose of enforcement of the new arrangements. The CSO, the organisation in which the applicants are working, is shown to have a cadre strength of 131. They seem to be the second largest cadre among all the participating organisations. The largest cadre, of course, is the NSSO with cadre strength of the order of 3227

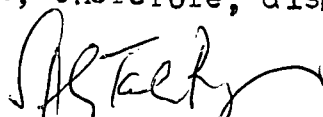
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out of a total of 3839. Even the NSSO staff, in our judgement, can claim that the chances of their promotion have been adversely affected to some extent if not largely. Quite irrespective of these considerations, as already stated by us, once a policy decision has been taken, the same cannot be questioned. No case has been made out by the learned counsel to convince us that the aforesaid new rules and the new arrangements in question are in any way arbitrary and violative of article 14 and 16 of the Constitution.

7. Looking at the nature of reliefs sought by the applicants reproduced in the paragraph 1, we find that the present OA also suffers from the vice of multifarious of reliefs. For instance, the relief at Para 8.6 seeks a direction to hold a DRC to consider the claim of the applicants for promotion to the post of Sr. Investigator. This relief clearly does not flow consequentially from the main relief sought by the applicants in paragraphs 8.1 and 8.3 of the OA, even if we do not consider para 8.2 which is no longer pressed by the learned counsel.

8. Learned counsel has emphasised that the OM dated 30.1.2002 by which the new arrangements have been enforced is at variance with the government decision accepting the recommendations of the 5th CEC in regard to the applicants. We have considered this submission and find no force in it as we can clearly see that it is the OM of 30.1.2002 itself which carries the decision of the Government on the aforesaid recommendations and the same has not been successfully challenged.

9. In the light of the foregoing we are convinced that there is no basis ^{any} justification for exercising the power of judicial review in the manners sought by the applicants. The present OA, is, therefore, dismissed in limine.


(S.A.T. Rizvi)
Member (A)


(Smt. Lakshmi Swaminathan)
VC (J)