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Central Administrative Tribunal: Principal Bench

O.A. No. 2076/2002

New Delhi this the 7th day of August, 2002

Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman (J)
Hon'ble Shri V.K. Majotra, Member (A)

1. Ashok Warriar,
S/o TVK Warriar,
R/o A-53, Allahabad Bank, C.G.H.S.,
Mayur Kunj,
Delhi-110096.
2. Saikat Sen Sharma
S/o M.K. Sen Sharma
R/o 44-C, Pocket-A/10,
Kohinoor Apartments,
Kalkaji Extension,
New Delhi-110019.
3. M.R. Qureshi,
S/o Shri M. Zakaria,
R/o 165, J-Extension, Lakshmi Nagar,
Delhi-110092.
4. Anil Kumar
S/o Shri M.C. Sood,
R/o 24, LIG, RPS Colony,
Khanpur, Bus Depot,
New Delhi-110062.

-Applicants

(By Advocate: Shri K.N. Balgopal)

Versus

1. Union of India
Through Secretary,
Ministry of External Affairs,
South Block,
New Delhi.
2. The Secretary,
Department of Expenditure,
North Block, New Delhi.
3. The Secretary,
Ministry of Personnel, Public Grievances
& Pension, North Block,
New Delhi.

-Respondents

ORDER (Oral)

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

We have heard Shri K.N. Balgopal, learned
counsel for the applicant.

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2. In this application, the applicant has impugned the Memorandum issued by the respondents dated 21.1.2002 which has been passed by them in pursuance of Tribunal's order dated 23.11.2001 in OA-3134/2001. That OA had been disposed of with a direction to the respondents to dispose of the representations made by the applicants by passing a reasoned and speaking order, which they have done. That order is being impugned in the present application.

3. We have considered the submissions made by the learned counsel for applicants and perused the relevant documents brought to our attention.

4. The aforesaid impugned Memorandum dated 21.1.2002 passed in pursuance of the aforesaid order of the Tribunal in OA-3134/2001 has been passed taking into account the office Memorandum issued by the respondents dated 3.9.2001. Para-1 of this Office Memorandum reads as follows:-

"It has been decided with the concurrence of the Department of Expenditure vide their u.o. No.F.747/EIII(B)/99 dated 25.2.2000, to upgrade 'temporarily', 80 (eighty) posts of Section Officers in integrated Grades II and III of the General Cadre of the Indian Foreign Service, Branch 'B' to the level of Under Secretary in Grade I of the General Cadre of Indian Foreign Service, Branch 'B' so as to give upgradation on a personal and in situ basis to the Section Officers who had completed 12 (twelve) years' approved service in the grade of Section Officers as on 1st July, 1999, with a view to relieve stagnation in the grade of Section Officers (emphasis added)".

5. In paragraph-2 of the impugned Memorandum dated

21.1.2002, the respondents have stated that the applicants are informed that the upgradation of 80 Section Officers (SOs) to the level of Under Secretaries on personal and in situ basis has been effected by them of those who had completed 12 years' approved service as on 1.7.1999 in terms of the aforesaid Office Memorandum dated 3.1.2001. It has also been stated in the impugned Memorandum, inter-alia, that the in situ promotion^{of} the Section Officers in the Ministry ^{has} been accorded by the respondents with the specific stipulation that it would be ^{a B-} one time exercise and applicants' request for granting similar promotions as and when they completed 12 years, cannot be accepted.

6. The relevant portion of the main reliefs sought for by the applicants in the present OA are as follows:-

"In view of the facts mentioned in para 6 above, the applicant prays for the following reliefs:-

(a) To set aside the impugned order No.Q-CAD/551/19/2001 dated 21.1.2002 issued by the respondent no.1.

(b) To direct the respondents to consider and if found fit, promote in-situ the applicants who have already completed 12 years' regular service as Section Officer as has been done in the case of their seniors in their departments and in various other departments.

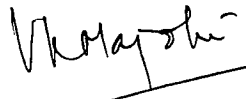
(c) To direct the respondents to give in-situ promotion to the applicants, if found fit, from the dates on which they completed 12 years service as Section Officers".

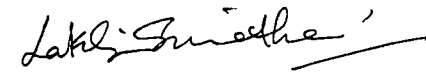
7. It is seen from the above facts and submissions made by the learned counsel that the applicants have not sought quashing of respondents' Office Memorandum dated 3.9.2001 on the basis of which the impugned order has

been issued.

8. In the circumstances of the case, we do not find any illegality or arbitrariness in the impugned order as the same has been based on the earlier O.M. issued by the respondents and taking into account the facts of the case.

9. In the circumstances, we do not find any justification to interfere in the matter under the powers exercised by us in judicial review. Accordingly, the OA is dismissed.


(V.K. Majotra)
Member (A)


(Smt. Lakshmi Swaminathan)
Vice-Chairman (J)

cc.