

(8)

Central Administrative Tribunal
Principal Bench, New Delhi.

CP-403/2003 in
OA-3162/2002

New Delhi this the 19th day of August, 2004.

Hon'ble Shri V.K. Majotra, Vice-Chairman(A)
Hon'ble Shri Shanker Raju, Member(J)

1. S.K. Bose,
S/o Sh. H. Bose,
111-B, Nivedita Enclave,
A-6, Paschim Vihar,
New Delhi-63.
2. Shiv Kumar,
S/o late Sh. Ram Saran Das,
A-181A, Lajpat Nagar,
Ghaziabad(UP).
3. Smt. K.P. Girija,
W/o Sh. P.K. Unni Raman,
G-373, Nauroji Nagar,
New Delhi-29.
4. Smt. Pankaj Chadha,
W/o Sh. Pradeep Raj Chadha,
H-314, Nank Pura,
New Delhi-29.
5. D.S. Antil,
S/o Sh. Dharam Singh,
1783, Lodhi Road Complex,
New Delhi-3.
6. Nandan Singh,
S/o late Sh. Ganga Singh,
GH-8/52, Paschim Vihar,
New Delhi-63.
7. Shiv Singh Chauhan,
S/o late Sh. K.S. Chauhan,
821, Sector-8, R.K. Puram,
New Delhi-66.
8. Suresh Chand Sharma,
S/o Sh. R.K. Sharma,
10/74, Gita Colony,
Delhi-31.

Petitioners

(through Sh. S.K. Das, Advocate)

Versus

1. Sh. J.V.R. Prasada Rao,
Secretary,
Department of Health,
Ministry of Health and Family Welfare,
Nirmal Bhawan,
Maulana Azad Road,
New Delhi-11.
2. Dr. S.P. Agarwal,
Director General Health Services,
Department of Health,
Ministry of Health and Family Welfare,
Nirmal Bhawan, Maulana Azad Road,
New Delhi-11. Respondents

(through Sh. KCD Gangwani and Sh. D.S. Mahendru, Advocate)

Order (Oral)

Hon'ble Shri Shanker Raju, Member(J)

Following directions were issued by this Bench on 27.03.2003 while disposing of OA-3162/2002:-

- “(i) Subject to availability of vacancy in the post of Statistical Assistants in the promotion quo as per the relevant Recruitment Rules, the respondents are directed to hold DPC positively within a period of three months from the date of receipt of a copy of this order. They shall consider the case of the applicants, if otherwise eligible in accordance with the Recruitment Rules, for promotion to the post of Statistical Assistants. Those found fit for promotion to the post of Statistical Assistants shall be entitled to notional fixation of seniority from the due date in accordance with the relevant Law, Rules and instructions;
- (ii) We are not saying anything about their pay because admittedly they have worked on the higher post on ad hoc basis for the earlier period and have drawn the salary in the higher pay scale of Statistical Assistants.
- (iii) Alternatively, in the cases where the period of ad hoc promotion has been continued for more than 13 & 14 years, respondents shall also consider whether under the Law they are entitled for regularization.
- (iv) The above action shall also be taken within three months from the date of receipt of a copy of this order.

No costs.”

2. Willful and contumacious disobedience has been alleged by the petitioners.

3. Respondents contended that in compliance thereof in true letter and spirit, the directions have been complied with.

4. By referring to an order passed on 26.3.2004, it is contended that whereas on consideration it is found that there were 50 sanctioned posts of Statistical Assistants out of which petitioners who fell in promotion quota that were only three vacancies which were reserved for SC/ST.

5. It is also contended that in the light of DoP&T instructions dated 25.5.1998 in the wake of decision of the Apex Court in R.K. Sabharwal Vs. U.O.I [1995(2)SCC 745] post based roster had been adopted.

6. On the other hand petitioners' counsel contends that the directions were to comply with the orders considering petitioners in promotion quota as two available vacancies as per the recruitment rules. As the rules are yet to be amended bringing in post based roster, the vacancy based roster is to be applied for considering their quota in the promotion for implementing directions of this Court.

7. On careful consideration of the rival contentions, it is trite law that in contempt no new cause of action can be racked up and also no new directions can be issued. However, it is to be ensured that whatsoever has been directed by the Tribunal is matriculously in true letter and spirit is carried out.

8. The DoP&T O.M. dated 25.5.1998 has brought into being the post based roster but to implement amendment in the rules is sine qua non. As the amendment has not been carried out, stand of the respondents to follow post based roster cannot be countenanced and keeping in view the directions, promotion quota has to be filled up as per the recruitment rules invoked which still apply vacancy based roster.

9. In this view of the matter, we dispose of this C.P. with a direction to the respondents to comply with our directions in true letter and spirit keeping in view the rules as ~~involved~~ determining promotion quota as per the observations made above. A reasoned order to this effect shall be passed within a period of three months from the date of receipt of a copy of this order. Notices are discharged.

S. Raju

(Shanker Raju)
Member(J)

V.K. Majotra

(V.K. Majotra)
Vice-Chairman(A)

/vv/