

Central Administrative Tribunal, Principal Bench

Original Application No. 3324 of 2002
M. A. No. 2871/2002

New Delhi, this the 2nd day of January, 2003

Hon'ble Mr. Justice V. S. Aggarwal, Chairman
Hon'ble Mr. V. Srikantan, Member(A)

1. Shri Vijay Pal Singh,
V-623, Gali No. 14,
Vijay Park, Mauzpur,
Delhi-53
2. Shri K. L. Sachdeva,
545, Ramlila Ground,
Jwala Nagar,
Shahdara, Delhi-32
3. Smt. Shashi Bala,
14/36, Subhash Nagar,
New Delhi
4. Smt. Sarita,
Qr. No. 41 Type-III
ITI Staff Quarters,
Vivek Vihar, Delhi.
5. Shri K. K. Sharma,
RZ-72, Indira Park,
Uttam Nagar, New Delhi-59.
6. Shri Ganga Prasad,
462, Kalyanvas,
Delhi-91
7. Shri Sulekh Singh Nagi,
3/83, II-floor, Sant Nirankari Colony,
Delhi-9
8. Shri S. S. Rohilla,
PS to Secretary (Education)
Room No. 6, Old Sectt.
Delhi-54

.... Applicants

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

Versus

Govt. of NCT of Delhi, through

1. The Chief Secretary,
Govt. of NCT of Delhi,
Delhi Sachivalaya,
IP Estate, New Delhi.
2. The Secretary (Services)
Govt. of NCT of Delhi,
Delhi Sachivalaya,
IP Estate, New Delhi.

.... Respondents

O R D E R (ORAL)

By Justice V.S. Aggarwal, Chairman

S.K. Walecha and another had filed O.A. 1195/2001. They had claimed a direction to the respondents to consider their names for promotion to DASS Grade I Cadre in accordance with the options exercised by them with consequential benefits. This Tribunal on 27.2.2002 had disposed of the said application with the following directions:

"Under the circumstances, the OA succeeds and is allowed to the extent that the impugned order dated 7.3.2001 promoting applicants to the post of Sr.PA is quashed and set aside. Respondents are directed to reconsider applicants' claims for promotion to DASS Grade I by holding a review DPC in the light of the options submitted by them and in the background of DASS Rules, 1967 as modified from time to time. These directions should be implemented within 3 months from the date of receipt of this order. Applicants shall be entitled to all consequential benefits in accordance with rules and instructions and judicial pronouncements. No costs."

2. In other words, as is reproduced above, it was directed that a review DPC in this regard in the light of the options exercised, may be held. The National Capital Territory of Delhi and others have preferred a Writ Petition No. 4719/2002 in the Delhi High Court. The High Court of Judicature at New Delhi dismissed the writ petition and held:

"6. Accordingly the application No. OA 1195/2001 was allowed by the Central Administrative Tribunal and the order dated 7th March 2001 purporting to promote the two respondents herein to the post of Senior PA was quashed and the petitioner was directed to reconsider the respondents claim for DASS Grade I by holding a review DPC in the light of the options submitted by the respondents.

7. In our view the reasoning of the Tribunal

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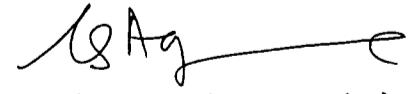
is clearly in accordance with the mandate of Rule 6 (I)(1)(b) of the DASS Rules framed under Article 309 of the Constitution of India which clearly prevail over any executive instructions or the directions of the UPSC relied upon by the petitioner to resist the respondents' claim. The respondents' option exercised pursuant to the memo of the petitioner dated 23rd March, 1999 clearly brings the respondents' case within the purview of Rule 6(1)(b) of the DASS Rules. Accordingly, we find that there is no infirmity in the impugned order of the Central Administrative Tribunal passed in OA No. 1195 of 2001 warranting interference under Article 226 of the Constitution of India."

3. Applicant Vijay Pal Singh and others, by virtue of the present application, seek quashing of the order of 25.6.2001 and also seek a direction to consider their names for promotion to Grade-I DASS strictly in view of the Statutory Recruitment Rules.

4. It is contended that the case of the applicants is on the same footing as that of S.K.Walecha referred to above and, therefore, their cases should be considered accordingly.

5. If that be so, it becomes unnecessary for this Tribunal to issue a show cause notice while disposing of the present application. It is directed that the respondents may consider the case of the applicants in the light of the earlier decision of this Tribunal and that of the Delhi High Court mentioned above. In case the applicants are not similarly placed, a speaking order to that effect may be passed.


(V. Srikantan)
Member(A)


(V.S. Aggarwal)
Chairman