

Central Administrative Tribunal
Principal Bench

O.A. No. 973 of 2002

New Delhi, this the 11th February, 2003

(D)

HON'BLE MR. JUSTICE V.S. AGGARWAL, CHAIRMAN
HON'BLE MR. GOVINDAN S. TAMPI, MEMBER (A)

1. D.C. Verma,
Section Officer(Finance),
Navodaya Vidyalaya Samiti,
Admn. Block,
I.G. Stadium, I.P. Estate,
NEW DELHI-110092.
2. S.K. Mund,
Section Officer(Works),
Navodaya Vidyalaya Samiti,
Admn. Block,
I.G. Stadium, I.P. Estate,
NEW DELHI-110092.
3. N. Vijayan,
Section Officer(Personnel),
Navodaya Vidyalaya Samiti,
Admn. Block,
I.G. Stadium, I.P. Estate,
NEW DELHI-110092.
4. N.R. Naidu,
Section Officer(Administration),
Navodaya Vidyalaya Samiti,
Admn. Block,
I.G. Stadium, I.P. Estate,
NEW DELHI-110092.
5. R. Khanna,
Drawing & Disbursement Officer,
Navodaya Vidyalaya Samiti,
Admn. Block,
I.G. Stadium, I.P. Estate,
NEW DELHI-110092.
6. B.C. Panda,
Vigilance Officer,
Navodaya Vidyalaya Samiti,
Admn. Block,
I.G. Stadium, I.P. Estate,
NEW DELHI-110092.
7. R.S. Meena,
Section Officer(Audit),
Navodaya Vidyalaya Samiti,
Admn. Block,
I.G. Stadium, I.P. Estate,
NEW DELHI-110092.
8. S.C. Bhatt,
Section Officer(Finance),
Navodaya Vidyalaya Samiti,
Admn. Block,

2
I.G. Stadium, I.P. Estate,
NEW DELHI-110092.
(By Advocate: Shri Anil Srivastava)

Applicants

1. The Commissioner,
Navodaya Vidyalaya Samiti,
Admn. Block,
I.G. Stadium, I.P. Estate,
NEW DELHI-110092.
2. S.B. Sharma,
Junior System Analyst,
Navodaya Vidyalaya Samiti,
Admn. Block,
I.G. Stadium, I.P. Estate,
NEW DELHI-110092.

Respondents

(By Advocate: Shri S. Rajappa & Shri K.B.S. Rajan)

ORDER (Oral)

Justice V.S. Aggarwal

By virtue of the present application, the applicants, who are working as Section Officer/Drawing Disbursement Officer/Vigilance Officer in the cadre of Section Officers of the Navodaya Vidyalaya Samiti, seek quashing of the Office Order dated 27.3.2002 whereby Respondent No. 2 Shri S.B. Sharma has been promoted and appointed to the post of Assistant Director(Finance). They also seek to set aside the Notification dated 22.3.2002 redesignating the post of Junior System Analyst as Section Officer w.e.f 7.6.1991. The third prayer made is to set aside the seniority list dated 22.3.2002 wherein Respondent No.2 has been shown as senior-most Section Officer.

2. Some of the relevant facts are that Respondent No. 1, Navodaya Vidyalaya Samiti is a society registered under the Societies Registration Act, 1860. It is an autonomous body under the Ministry of Human Resources Development. The terms of appointment, promotion and other conditions of the various posts under the Samiti are governed by the Recruitment Rules of 1991. The same have been amended from time to time. There are three kinds of cadres of

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Section Officers in the Samiti under the Recruitment Rules of 1991, i.e. Section Officer, Section Officer (Finance) and Section Officer (Computer). So far as the post of Section Officer is concerned, the Recruitment Rules of 1991 provided that it is to be filled up from among the Assistants with six years of regular service in the grade in the Samiti. By the revised Recruitment Rules of 1995, the cadre of Section Officer and cadre of Section Officer(Finance) were merged into a single cadre of Section Officers. The post of Section Officer(Computer) was redesignated as Junior System Analyst. In the year 1999, the Recruitment Rules were further revised to provide for a minimum qualifying service of eight years in the feeder cadre of Section Officers for promotion to the post of Assistant Director (Admn.) and Assistant Director (Finance).

3. So far as the Recruitment Rules of 1991 are concerned, there was no promotional post for Section Officer(Computer). On 29.12.1999, an amendment was made in the Recruitment Rules to provide that the promotional post for the single cadre of Section Officers was that of Assistant Director(Admn.) and Assistant Director(Finance).

4. On 30.10.2001, respondent No.1 issued a final seniority list of the cadre of Section Officers in the Samiti. This seniority list was issued after inviting objections. As per the seniority list so issued, the applicant, Sh. D.C. Verma was shown as senior-most in the cadre of Section Officers. The name of respondent No. 2 did not find a mention in the cadre of Section Officer, since he was a Junior System Analyst. It is asserted that respondent No.2 had not objected.

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5. Vide Notification dated 22.3.2002, the post of respondent No.2 was redesignated as Section Officer w.e.f. 7.6.1991. It is asserted that as per the Recruitment Rules of 1991, respondent No.2 did not belong to the feeder cadre for promotion to the Section Officer. That order was, therefore, not valid. Certain other reasons have also been mentioned which are not relevant for the purposes of disposal of the present application.

6. Respondent No.2 is stated to have never worked as Section Officer. The seniority list dated 22.3.2003 wherein respondent No.2 has been shown as the senior-most, has been issued without inviting objections.

7. Needless to state that in the reply filed, the application has been contested.

8. So far as the reply filed by the official respondent is concerned, it has been asserted that the Section Officer is a feeder cadre post for promotion to the post of Assistant Director(Finance).

9. The sum and substance in the reply is further that the decision has been taken to change the nomenclature of the post of respondent No. 2 from Section Officer (Computer) to Junior System Analyst, because respondent No. 2 had been representing for merger of his cadre with Section Officer. As a result of the merger, he was placed as senior-most in the seniority list which, according to respondent No. 1, is correct, and the order so issued does not, therefore, require to be set aside.



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10. Respondent No. 2, as provided in the reply filed by respondent No.1, has also contested the same.

11. During the course of submissions, it was pointed to us that the seniority list was redrafted but no objections of the applicants were called for and in this process, the applicants were denied an opportunity to challenge the seniority of respondent no.2.

12. The well settled principle is that principles of natural justice cannot be ignored. In few words, we can state that whenever an order is passed which follows civil consequences, an opportunity should be given to represent.

13. What is the position herein? Admittedly, while respondent no.2 was shown senior to applicants, no tentative seniority list was circulated calling for objections. This makes the applicants complain that their rights have been affected without giving an opportunity to file their objections in this regard.

14. When such is the situation, we have no option but to allow the OA on this short ground and quash the impugned order dated 27.3.2002 whereby respondent no.2 has been promoted, and of the order dated 22.3.2002 wherein respondent no.2 has been shown as the senior-most Section Officer. It is directed that before any such exercise is done, respondent No.1 may call for objections and if any objection is filed, the same should be decided at the earliest.



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15. By way of abundant caution, it is made clear that nothing said herein should be taken as an expression on the merits of the record.

(Govindan S. Tampi)
Member (A)

Govindan S. Tampi

(V.S. Aggarwal)
Chairman

V.S. Aggarwal