

CENTRAL ADMINISTRATIVE TRIBUNAL
(PRINCIPAL BENCH)
New Delhi

OA/TA No. 1458 OF 2001

A-Ramji v/s GOI & OBI

PART - I PERMANENT RECORD

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Order Sheet/Judgments

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Prepared by: <u>[Signature]</u>	Checked by:
Signature & Date :	Signature & Date :
Name :	Name :
Designation :	Designation :

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6.6.2001
OA 1458/2001

Present: Shri Raju Ramchandran, learned senior counsel
with Shri Ajit Pudussery, learned counsel

Heard Shri Raju Ramchandran, learned senior
counsel for the applicant.

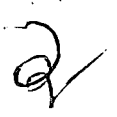
Admit, subject to legal pleas.


Issue notice to the respondents to file reply
within four weeks. Two weeks for rejoinder. List before
J.R. on 2.8.2001 for completion of pleadings. \

Learned counsel has submitted that the app^{le}
is to repatriated to his parent cadre, i.e., Wes relief.
on 30.6.2001. Hence, he has prayed for interim
He also prays for Dasti notice on interim relief.

Issue Dasti notice on interim relief, returnable
within two weeks.

List on 26.6.2001 for hearing on interim relief
before the Vacation Bench.


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


(Mrs. Lakshmi Swaminathan)
Vice Chairman (J)

/sunny/

VACATION BENCH

Supplementary List II

1.

OA No.1458/2001

MA No.1317/2001


19th June, 2001

Present: Shri K.R. Sachdeva, learned counsel for the
applicant in MA

MA 1317/2001 in OA 1458/2001 has been filed by
the (respondents) applicant seeking directions that the
matter with regard to interim relief in the aforesaid OA
is considered by the Vacation Bench other than the one
comprising Hon'ble Shri S.A.T. Rizvi on 26.6.2001, in
the interest of justice.

This MA 1317/2001 along with OA 1458/2001 be
placed before the Vacation Bench on 26.6.2001 for
consideration.

Issue DASTI.


(M.P. SINGH)
Member (A)

/ravi/

Copy of DASTI notice filed
MA for consideration of 22

DB member

TR for 2/8/2001

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

M.A.No.1317/2001
O.A.No.1458/2001

Hon'ble Shri Shanker Raju, Member (J)
(VACATION BENCH)

New Delhi, this the 29th day of June, 2001

Shri N. Ramji Applicant

(By Advocate: Shri Ajit Puddissary with Shri Jayant Dass, Sr. Counsel)

Vs.

Union of India & Others. ... Respondents

(By Advocate: Shri K.R.Sachdeva)

O R D E R (on Interim Relief)

By Mr. Shanker Raju, Member (J):

Heard both the parties and perused the material on record.

2. By way of an interim relief the applicant prayed for an order against the respondents with regard to his repatriation, i.e., West Bengal, to be effected on 30.6.2001.

3. MA 1317/2001 filed by the respondents seeking appropriate direction not to list the case before the Vacation Bench comprising of Hon'ble Shri S.A.T.Rizvi is not pressed by the learned counsel for the respondents as the question of grant of interim relief is considered by me, MA 1317/2001 has become infructuous. Hence the same is dismissed.

4. The applicant belonging to 1966 Batch of IAS and at present working as Additional Secretary with the respondents has assailed his non-empanelment for the post of Secretary to the Govt. of India and

has sought for a direction to hold a review and reconsider the applicant for appointment as Secretary with all consequential benefits as well as he has prayed for declaring Paragraph 14 of the Central Staffing Scheme (hereinafter called as 'the Scheme') as ultravires. As an interim measure the applicant at present has stressed on maintenance of status-quo regarding his service and direction to the respondents not to repatriate to his parent cadre in West Bengal.

5. To adjudicate and resolve the present controversy the brief facts are necessary to be highlighted.

6. In OA 2481/99 where an IAS of 1966 Batch Mrs. Sarita Jayant Das belonging to Orissa Cadre has sought empanelment for the post of Additional Secretary and Secretary to the Govt. of India. Due to conflicting decisions of the Members of the Division Bench vide an order dated 15.12.2000 though agreeing on the question of directing the respondents to consider the applicant therein afresh for empanelment for the post of Secretary with protection of her seniority vis-a-vis Batchmates. There was a disagreement on the issue of Paragraph 14 of the Scheme and as to the empanelment of applicant as Additional Secretary at an appropriate time with consequential remedies. The matter has been referred to for opinion of a third member of under Section 26 of the Administrative Tribunals Act, 1985. The matter is now pending and is to be taken up on 16.7.2001. I have been apprised that pursuant to the decision of Tribunal regarding empanelment of the applicant

therein in OA 2481 ibid (Mrs. Sarita J. Das has already been empanelled and has been appointed as Secretary with all consequential benefits. The directions regarding her review and consideration for empanelment have neither been challenged in a review nor by way of a Writ Petition.

7. The learned senior counsel for the applicant placing reliance on the decision rendered by Hon'ble Shri S.A.T.Rizvi particularly on Para.33 of the order stated that it has already been established and held that for all practical purposes at the time of selection/empanelment of 1966 Batch and on further review reliance has been placed exclusively on ACR gradings. In this background, it is stated that it has already been established that the empanelment process was not fair and resort to Paragraph 14 of the Scheme ibid which does not provide any guide-lines or any procedural safeguard the evaluation is left to the discretion of the Cabinet Secretary in a subjective manner.

8. The learned senior counsel for the applicant contends that reference of Judgment in Mrs. Sarita J. Das's case supra would not have any effect in the present case as apart from challenge to the vires of Para 14 of the Scheme ibid, the applicant has also challenged the arbitrariness in the process of empanelment which has been highlighted and made apparent in the decision of in Mrs. Sarita J. Das's case supra and this view is being agreed upon by the both the Judges and there is no disagreement to that effect. The applicant in this conspectus stated that

as the ACR of the applicant is the paramount consideration for empanelment the applicant being senior and having nine Outstanding ACRs out of 11 is entitled to be empanelled and being appointed as Secretary to the Government of India in the year 1997 itself. The applicant alleges malice in law against the respondents and further contends that he has been promoted as Additional Secretary on the basis of same ACRs and further two ACRs of the applicant have also been Outstanding, as in case of any downgrading the same should have been conveyed to him. As nothing has been conveyed, rejecting the case of the applicant for empanelment and also not finding him fit in the review is not legally tenable. The learned counsel for the applicant with regard to the interim relief states that three paramount considerations are to be satisfied i.e., prima-facie case, balance of convenience and irreparable loss. The applicant having regard to this contends that parameters mentioned in Para 14 of the Scheme ibid are not to be taken into account de hors the ACR of the applicant for empanelment and this view is already settled in Mrs. Sarita J. Das's case supra which has attained finality being not challenged at any where. It is also contended that no reasons have been recorded for non-selection of the applicant and the juniors have been accorded the same despite much inferior ACR. The applicant contends that on being empanelled as Additional Secretary in July, 1997 and as per Para 17 of the Scheme ibid he has a tenure of four years which comes to an end on 30.6.2001. As a consequence the applicant has to repatriate to his parent cadre of West Bengal. It is the contention that if the

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applicant has been properly considered and empanelled. he would not have been relieved of his tenure and would have been continued till his retirement on central deputation. It is contended that the relief of the applicant is equitable as on being repatriated to his parent cadre he would be debarred from empanelment and this repatriation would be with stigma of his failure to have been empanelled. It is contended that no inconvenience is caused to the respondents if the extension is granted, which has been done in several cases including in the case of Mrs. Sarita supra who by way of an interim measure has not been repatriated back. With regard to limitation and exhaustion of remedies, it is contended that in 1997 and in review made on 2000 no result of the selection was ever intimated and the applicant has made a representation which is yet to be disposed of. The applicant contends that as the cause of action is on a continuing wrong the same is recurring. As regards making representation for extension of tenure, it is contended that the applicant was in the impression that he would be considered and empanelled and as such he had not made any such representation to the respondents. Lastly, it is contended that if he is repatriated he would not be given the priority. The applicant has no other efficacies remedies available to him and in the select list the empanelment has been made batch wise. Irrespective of the challenge to para 14 of the Scheme ibid, there is a prima facie proof of improper and malafide exercise of power by the respondents in the selection process. The applicant contends that in a judicial review the Tribunal has a jurisdiction to

interfere. It is also contended that the CSS are only guide-lines but if it is arbitrary and unguided the same is not legally tenable. As no statutory rules are framed to fill up the post of Secretary etc. by the Government the same is not to be enforced upon the applicant. The applicant contends that he has been arbitrarily discriminated which offends his fundamental right enshrined under the Constitution of India.

9. The respondents took exception to the contentions of the applicant and has also filed a reply. It is contended on behalf of the learned counsel for the respondents that the application is admitted subject to the legal pleas. The case of the applicant is hit by limitation and also on account of non-rejoinder of necessary parties. It is also contended that the applicant has prayed for review of his empanelement and also prayed for a stay of repatriation which are two distinct reliefs and are not consequential to each other and the same are not legally tenable in view of Rule 10 of the CAT Procedure Rules, 1987. It is also contended that the applicant seeks extension of his tenure to oversee the litigation on an expectation that his main relief would be allowed by this Court. By referring to Para 17 of the Scheme *ibid* it is contended that the same has been made in accordance with the tenure rules and does not affect either the empanelment or appointment as Secretary to Govt. of India. If the applicant is found suitable to hold Secretary level post based on the particular vacancies he would be requisitioned. It is further contended that no officer would be

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accorded extension after completion of the full tenure under the Scheme. The applicant has also not made any request or filed any representation for consideration of extension of tenure beyond 30.6.2001. According to him the process of empanelment for various posts in the centre including Secretary is totally unrelated to the position of an officer as to whether his position at the relevant point of time in his cadre or outside cadre. On merits too the respondents have defended their action and contended that the applicant has been duly considered and was not found fit as per Para 14 of the Scheme. Referring to J.C.Jaitley's case, it is contended that the directions were set aside. Placing reliance upon the ratio of the Hon'ble Apex Court in UOI Vs. Samar Singh, 1996 (10) SCC 555 it is contended that Para 14 of the Scheme has already been dealt with by the Apex Court. It is also contended that the applicant has not exhausted the remedies and at the fag end of his deputation he has resorted to the interim relief. Para 17 of the Scheme ibid has not been impugned by the applicant in the present OA. Lastly, it is contended that empanement and deployment of a person are two different aspects and the applicant does not fulfil the three important criteria's for accord of interim relief. The applicant has failed to establish prima facie case, and has no balance of convenience in his favour as well as he would not entail any irreparable injury or loss. It is also contended that the applicant's claim is basically founded on the issue of legality of Para 14 of the Scheme ibid and the same is still under adjudication of this Court in a reference.

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10. In my confirmed view, the applicant is not legally entitled to be accorded the Interim Relief regarding the stay of his repatriation to the parent cadre. I find from the contentions taken by the applicant to challenge his non-empanelment that basic thrust has been on the vires of Paragraph 14 of the Scheme *ibid*. Regarding the vires of this paragraph this Court is in seise of the matter in a reference. Apart from it, I find that the applicant has not challenged Para 17 of the Scheme *ibid* pertaining to the tenure rules. The interim relief prayed by the applicant does not appear to be a consequential relief to his main prayer. Empanelment to the level of Secretary and deployment are two different aspects. Para 17 of the Scheme *ibid* dealing with tenure specifically laid down four years tenure for an Additional Secretary and at the end of it one has to revert to his parent cadre. There is no provision for any extension after completion of full tenure. The applicant in this case has not made any request to the respondents by way of filing a representation for ~~extension~~ extension of tenure, inter alia, stating reasons to support of his claim. Apart from it, I agree with the learned counsel of the applicant that the applicant is bound by the provisions relating to tenure contained in Para 17 *ibid*. In absence of any challenge to these provisions in the present OA, the applicant is to be governed by these provisions which have been tested test of time for more than 30 years and are not proved to be either arbitrary or ultravires. In fact, the applicant's attempt to stay beyond his tenure is to oversee the litigation in which he has challenged his non-empanelment. The reversion of the applicant to

his parent cadre is in accordance with the tenure rules without affecting his empanelment or appointment at the level of Secretary. As he could be if found suitable to hold Secretary level post to the respondents can always be requisitioned. No one has an indefeasible claim or right or a particular posting. Regarding the contention of the learned counsel for the applicant, as to the observation of this Court which was agreed to in principle by both the Members, pertaining to the empanelment process, the same has been given in the context of the facts and circumstances of the case unless Para 14 of the Scheme *ibid* is declared *ultravires* and the contentions of the applicant are dealt with in detail by the appropriate court on the basis of the record it cannot be observed that as the selection process was found fault with in the case of Mrs. Sarita J. Das's case, the same would *mutatis mutandis* applies to the case of the applicant too. The applicant if succeeds in the present OA, would be empanelled with protection of his seniority vis-a-vis his batchmates and thereafter he could be considered for being requisitioned as stated by the respondents in their reply. In my view according the interim relief to the applicant would also be going against Rule 10 of the CAT (Procedural) Rules *ibid*, which debars accord of plural remedies.

11. Though the respondents have also raised certain preliminary objections, like limitation and non-joinder of necessary parties, the same are not adjudicated as the applicant has not been given an opportunity to file his rejoinder.

12. Having regard to the reasons and discussion made above, I am of the view that the applicant has failed to establish his claim for accord of interim relief. The applicant has neither balance of convenience in his favour nor would suffer an irreparable loss. In the result, the prayer for interim relief is rejected. It is however made clear that the observations made in this order should not be construed as an opinion on the merits of the main relief prayed by the applicant.

13. As the respondents have already filed their counter reply, the applicant is given two weeks time to file rejoinder. List the OA on 11.7.2001 before the appropriate Bench. DASH

S. Raju

(SHANKER RAJU)
MEMBER(J)

/RAO/

admit the
copy filed

Item No. 25

OA No. 1458/2001

11/7/2001

Present : Shri Jayant Des, Sr. Advocate with
Shri Ajit Pundhary, Counsel for the Applicant
Shri K.R. Sachdev, Counsel for the Respondents.

list on 31/7/2001 under Regular Matters as the
Case is already admitted.

(M.P. Sengh)
M(A)

(A.P. Agarwal)
Chairman

Admitted
R.P. 1/1/2001

/86/

OA No. 1458/2001

02/08/2001

Present, Sh. Jayant Das, Sr.
Advocate with Shri
Ajit Puddisery, Counsel
for the applicant.

Sh. K. R. Sachdeva,
Counsel for the
respondents.

List the present OA after
disposal of OA No. 2481/99 pending
~~with~~ before a Third member Bench.

Liberty to the parties to mention.

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

(Ashok Agarwal)
Chairman

13A.


M.A.1859/2002 in
O.A.1458/2001

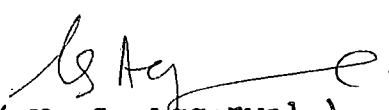
29.8.2002

Present : Shri Ajit Puddissery, counsel for applicant.

Shri K.R.Sachdeva, counsel for respondents.

List before Court-II on 3.9.2002.


(V. K. Majotra)
Member (A)


(V. S. Aggarwal)
Chairman

/as/

12.

MA 1859/2002


OA 1458/2001

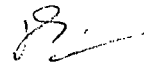
Present: Shri Jayant Das, ^{learned} senior counsel and Shri Ajit Puddissary, learned counsel for applicant

Shri K. R. Sachdeva, learned counsel for respondents.

Learned senior counsel presses MA-1859/2002. Shri K. R. Sachdeva, learned counsel accepts notice on MA. He seeks and is allowed two weeks to file reply. The respondents should keep available the relevant records in ^{the} ~~the~~ sealed cover for our perusal ~~time of~~ at the final hearing of OA and MA which may be listed together.

List on 21.10.2002 for PFH.


(S.A.T. Rizvi)
M (A)


(Mrs. Lakshmi Swaminathan)
VC (J)

/sunil/

21-10-2002

14.

MA 1859/2002
in


O.A. - 1458/2001


17

Present. None for the applicant.

Shri K. R. Sachdeva, learned counsel
for the respondents.

As one of us (Shri V. K. Mazotra, Member (A))
has a personal difficulty in hearing this matter,
list before any other appropriate Division Bench on
29-10-2002.


(V. K. Mazotra)
Member (A)


(Smt. Lakshmi Suamialtan)
Vice Chairman (J)

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List before c.m. I
on 28.10.2002



Admit
Rejoinder is filed
MA 1859/02 - for division
Rejoinder MA filed

17.
29-10-2002
MA 1859/2002
OA 1458/2001

Present : Sh. Jayant Das, ld. sr. counsel along with
Sh. Ajit Pudissery, for the applicant.
Sh. K.R.Sachdeva, ld. counsel for the
respondents.

Reply to MA 1859/2002 has been filed by the
respondents. Ld. counsel for the applicant seeks and
is granted two weeks time to file rejoinder to the
said reply.

2. As it is stated that pleadings in the OA
are also complete, list the MA along with OA for PFH
on 27-11-2002. Respondents are directed to keep the
relevant records ready for Court's perusal on the next
date of hearing. Copy of this order may be given to
both the ld. counsel for the parties.

(Govindan S. Tampi)
Member (A)

/vksn/

(Dr. A. Vedavalli)
Member (J)

OA admitted
Reply - filed
Rejoinder - filed
Reply to MA 1859/02 filed
Reply to MA - filed

44.

MA 1859/2002
OA 1458/2001
27.11.2002.

Present: Sh. Ajit Puddiderry, learned counsel
for the applicant.
Shri K.R. Sachdeva, counsel for respondents.

At the request of learned counsel for the
applicant to which there is no objection from the
other side, the case is adjourned to 7.1.2003.

3
(Govindan S. Tampi)
Member (A)

By
(Dr. A. Vedavalli)
Member (J)

/mahesh/

Admit / Pleadings complete
in A for per 3 records / sty / Pleadings complete

List in e.m. IV
no no 23 in e.m. III
11/11/02

7.1.2003

MA 1859/2002 in OA 1458/2001

Present: Shri Jayant Das, senior counsel with Shri Ajit Puddiserry, counsel for applicant

Shri K.R.Sachdeva, counsel for respondents

Shri Jayant Das, learned senior counsel for applicant presses MA-1859/2002. He has pointed out that the applicant has come before this Tribunal in Vacation Bench seeking interim relief against his repatriation to the parent cadre. As the said plea was not allowed, he was repatriated and has since been working as Principal Secretary, Food and Supplies Department and Commissioner (Food), West Bengal. However, on the subsequent date, the case of the applicant and others was considered on 26.11.2001 and he had also been empanelled for becoming a Secretary to the Govt. of India. Following which, the Chief Secretary of West Bengal was asked to confirm the availability of the applicant for a Central posting in January, 2002 itself and the same was done. But the posting of the individual to any Secretary level posting had not come, though a number of posts - as many as 48 in the rank of Secretary had been filled up by August, 2002 by appointing people of 1966, 1967 batch and even 1968 batch. The applicant, therefore, apprehends that he had been singled out for being denied promotion to the post of Secretary to which he has been legally empanelled on account of the fact that he had approached the Tribunal earlier seeking justice. Only legally recognized principle which has to be followed for making the promotion/appointment to the post of Secretary, is the seniority in the panel once empanelment by the ACC has taken place. The respondents by not promoting the

applicant to the post of Secretary in his turn had, according to the learned senior counsel for applicant, violated the fundamental rights guaranteed under Articles 14 & 16 of the Constitution. The applicant's numerous representations orally had borne no results which have forced him to file the MA seeking to have avenues opened, as the doors of the Govt. had apparently been closed to him for the present. Shri Das, during the oral submissions, referred to the decision of Hon'ble Supreme Court in State of Mysore Versus S.R. Jayaram, reported as [1968] 1 SCR 349, wherein in spite of the powers granted to the Govt. in terms of Gazetted Probationer's Rules, 1959, the Hon'ble Supreme Court had struck the same down and directed that the same could not be used to hurt the just interests of persons. In the circumstances, the applicant seeks that the Tribunal may direct calling for the records pertaining to the appointment/promotion made to the post of Secretary, Govt. of India, peruse the same and pass necessary orders to render him justice.

2. Strongly rebutting the propositions made in the MA, Shri K.R.Sachdeva, learned counsel for respondents points out that the MA was totally non-maintainable. The manner in which the applicant was going about in this case would give a wrong impression that his non-appointment as the Secretary in spite of his being empanelled was on account of some enemical attitude exhibited by someone in the Central Govt. which was not correct. It is not a case where any personal factor had played but the Govt. was following the pattern permitted in the Central Staffing Scheme (CSS) and nothing further need be looked

into it. According to him, the decision in the case of S.R. Jayaram's case (supra) relied upon by the learned senior counsel for applicant has no basis at all, as the entire exercise is clearly authorized by the CSS. Paragraphs 14, 15 and 21.2, he relies upon to show that everything has been done strictly in accordance with rules. Para 14 relates to the empanelment. Para 15 states that Cabinet Secretary shall be within the custodian of the employment, whereas para 21.2 states "The Civil Service Boards (CSB) shall not be concerned with the recommendations for appointment to the posts at the level of Additional Secretary, Special Secretary to the Government of India. In respect of these cases, the Cabinet Secretary shall keep in view the approved suitability lists of officers fit to hold the categories of posts and irrespective of whether the officers are serving in the Government of India or in the States, submit recommendations to the Appointments Committee of the Cabinet". It would, therefore, mean that the empanelment of an individual per se does not give him any right for being appointed as the Secretary, but it is for the Cabinet Secretary, who is vested in his powers in terms of para 21.2 to select for recommendation to Appointments Committee, names of those persons suitable for holding specific post keeping in mind para 14. In this case, what has happened so far is only the proper exercise by the Cabinet Secretary of the powers so vested in terms of para 14. There is no ground whatsoever for the applicant to have any apprehension that he has been singled out for discriminatory treatment. As the Scheme has been correctly given effect to, calling for the

records, as is being sought by the applicant, was improper, mischievous and shall not be permitted, pleads Shri K.R.Sachdeva.

3. We have carefully considered the matter. It is also not disputed that the applicant has been empanelled for becoming Secretary to the Govt. of India. It is not disputed that though the applicant belongs to 1966 batch and has been empanelled a number of persons who were in the panel belonging to 1966, 1967 and 1978 batches have already been elevated to the rank of Secretary or given equivalent jobs. As many as 48 such appointments have been made but the applicant had not been so appointed in spite of his empanelment. While it is possible to consider the argument raised on behalf of the respondents by the learned counsel that no adverse inference be drawn from the non-selection of the applicant as what has been done is only the proper exercise of the powers vested in the Cabinet Secretary for making recommendations to the Appointments Committee in respect of persons who are already empanelled keeping in mind their respective suitability, we are left with the feeling that there is something more than that meets the eye. It is found that an individual, who has been in service for nearly 36 years and has been holding the responsible post both in the State Govt. as well as in the Central Govt. has not filled the bill for holding even the least important among the Secretary level posts of the Central Govt. despite his empanelment. Therefore, it would be necessary to see as to what could have weighed in the minds of the authorities concerned for denying him the post. We do

not, even for a moment, say that any individual has any right for selection to any specific post. However, once an individual has been empanelled to become Secretary after fully going through the selection processes, denying him the same is a bit surprising. The Tribunal would be assisted in determining the issue only when it will be in a position to peruse the records.

4. This being the case, we hold that the present MA filed on behalf of the applicant has merit and has to be allowed. We order accordingly. We are giving two weeks' time to the respondents to produce the relevant records in this case beginning from the stage from which he has been empanelled to the subsequent stages where others, who were similarly empanelled above him or below him, have been given appointments as Secretary which he has been denied the same. No orders are being issued on the second aspect of the MA because the same is possible only after perusing the records and hearing the parties thereafter.

5. List on 14.2.2003 as part-heard.

Issue Dasti.

(Shanker Raju)
Member (J)

/sunil/

(Govindan S. Tampi)
Member (A)

*Admit Pleadings complete
no ptn. & oases / stry / Pleadings complete
dasti to be produced.
proof of Dasti service not filed*

24.02.2003

Item No.2

PH OA 1458/2001

Present: Sh Jayant Das, senior counsel for applicant.
Shri K.R.Sachdeva, counsel for respondents.

Shri K.R.Sachdeva, learned counsel for respondents produced before us a copy of office order No.6/6/2003-ED(SM-I) dated 7.2.2003 wherein it is stated that the Appointments Committee of the Cabinet has approved the appointment of Shri N.Ramji, IAS(WB-66), presently in the Cadre, as Secretary, North-Eastern Council Secretariat, Shillong. He also produced a copy of a Fax message from the Govt. of West Bengal dated 20.2.2003 indicating that Shri Ramji has expressed his unwillingness to accept the offer of his Central Deputation as Secretary in the North Eastern Council Sectt., Shillong. Shri Sachdeva points out that the respondents have done whatever was expected of them and nothing further remained to be performed.

Shri Jayant Das, learned Sr. counsel for the respondents points out that the applicant was empanelled only after approaching the Tribunal in earlier OA Thereafter, more than one year has gone by and over 60 individuals who were empanelled, most of whom were his juniors had been appointed to Secretary level posts, without appointing him as Secretary, leading to filing of this OA. The present appointment was more of a formality than dispensation.

We note that during the last hearing on 16.1.2003 we had decided that the respondents should produce the

(2)

relevant records to ascertain as to how the applicant's name though was placed in the panel, was not included for appointment as Secretary. The file produced before us today only relates to the issuance to the order appointing the applicant as Secretary North Eastern States Council at Shillong and this file has been initiated on 30.1.2003, obviously after the receipt of direction on 16.1.2003. This does not satisfy us. What we require is the production of the relevant records whereunder appointments were ordered, following the applicant's empanelment but without promoting him. This would have to be done. Respondent are directed to do so by the next date of hearing, i.e. 2.4.2003.

We also direct that a copy of this order be issued to both the parties.

(Shanker Raju)
Member(J)

/kd/

(Govindan S. Tampi)
Member(A)

*Admission / Pleadings complete
major plng. & stay
records to be produced. after*

21.4.2003

✓

P.H. 1458/2001

Present:- Mr. Ajit Puddiserry, Counsel for applicant.
Mr. K. R. Sathidana, Counsel for respondents.

Mr. Sathidana points out that this case will be argued by learned Additional Solicitor General. Case is adjourned to 06.5.2003 at 2.00 PM. No further adjournment shall be granted.

Mr.
(Shankar Raju)
MLA

Mr.
(Gowindan S. Tarapalli)
MLA

up

Admit / Pleadings complete
MA for ptn. records & stay / Pleading complete
MA for ptn. & records
allowed order 24/03
records to be produced
order 24/03

Item No.4

O.A.No.1458/2001

13.05.2003

Present: Sh. Jayanti Das, learned senior counsel
with Shri Ajit Pudivsery, ld. counsel for
applicant.

Shri K.R.Sachdeva, ld. counsel for
respondents.

Sh. K.R.Sachdeva, learned counsel for
respondents indicates that in this case respondents
~~have appointed~~ ^{represent} Shri M. ^{Rothaki} Rothaki, learned ASG and he is
not in a position to argue the case today. He
requests for an adjournment.

would be

List on 21.5.2003 at 2.00 PM.

Respondents are directed to comply the
instructions already issued vide Tribunal's order
dated 24.2.2003 in respect of production of relevant
records on the next date of hearing.

(Shanker Raju)
Member(J)

(Govindan S. Tampi)
Member(A)


rao/

1.
23-6-2003
OA 1458/2001

Present : None for the applicant.

As Sh: K.R.Sachdeva, Id. counsel for the
respondents is out of country, list on 11-7-2003.


(SHANKER RAJU)
MEMBER (J)


(GOVINDAN S. TAMPL)
MEMBER (A)

/vnd/

1
16.7.2003

PH OA 1458/2001

Present: Shri Jayant Das, Senior counsel and Shri Ajit Puddiserry, counsel for applicant along with him

Shri K.R.Sachdeva, counsel for respondents

Shri K.R.Sachdeva, learned counsel brings to our notice that the respondents approached the Hon'ble High Court in CWP against the directions of this Tribunal. [redacted] had come up before the Hon'ble High Court on [redacted] and it was dismissed. He seeks sometime to get instructions from the Department. List as part-heard on 24.7.2003 at 2.00 PM, on which date, the respondents shall produce the departmental records and a copy of the order passed by the Hon'ble High Court in CWP before the Court.

Let a copy of this order be supplied to both the [redacted] counsel.

(Shanker Raju)
Member (J)

(Govindan S. Tampi)
Member (A)

/sunil/

⑤

25-09-2003

OA-1458/01

3/

Present: Sh Jayant Dass, Counsel for Applicant.
Sh K.R. Sechhware, Counsel for respondents.

List before an appropriate Bench
on 29/9/03 at 2.00 P.M.

(R.K. UPADHAYAYA)
MCA

(SHANKER RAJU)
M(D)

ms/

32

Item No.1


PH.O.A. No.1458/2001


18.8.2003

Present : Shri Ajit Puddiserry, learned counsel of the
applicant

Shri K.R. Sachdeva, learned counsel of the
respondents

List before the appropriate Bench on 8.9.2003.


(R.K. UPADHYAYA)
ADMINISTRATIVE MEMBER


(SHANKER RAJU)
JUDICIAL MEMBER

/ravi/

6.8.03 of ...
...

(2)

29/9/2003

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OA - 1458/2001

Present: Sh. Jayant Dass, Sr. advocate with Sh. Ajit
Pudliserry, counsel for applicant.
Sh. K.R. Sachdev, Counsel for the
respondents.

Respondents are directed to bring
the relevant records for our perusal on the
next date of hearing.

List on 20/10/2003 for hearing.



(R.K. UPADHYAYA)
MCA

h

(SHANKER RAO)
M(J)

me

S-2

20.10.2003.

OA-1458/01

Present: Sh. Jayant Datta, Sr. Advocate with Sh. K.C. Rynith, Counsel for Applicant

Sh. K.R. Sachdeva, Counsel for respondents.


By an order dt. 24/02/2003, respondents were directed to produce the relevant record before this Tribunal. Respondents approached the Delhi High Court against the said order by filing a CWP which was dismissed.


By an order dt. 13-10-2003, passed by the Apex Court in S.L.P. No. 18111/03, it has been directed that the petitioners i.e. respondents in OA, shall not be required to produce the relevant records as per orders dt. 24/02/2003 passed by the C.A.T.

In this view of the matter, as the matter is subjudice before the Apex Court, the present OA is adjourned sine-die with liberty to either of the parties to revive the same at the appropriate stage.

A copy of this order be given to both the parties.

A copy of this order be given to both the parties.


(R.K. UPADHYAYA)
M(A)

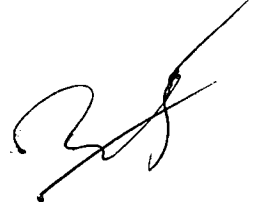

(SHANKER RAJU)
M(D)

m2

**COURT NO: IV
(SECOND FLOOR)
(SPECIAL BENCH)**

**HON'BLE DR. R.C.PANDA
HON'BLE DR. DHARAM PAUL SHARMA**

**MEMBER(A)
MEMBER(J)**



**NOTE: THIS SPECIAL BENCH SHALL ASSEMBLE SOON AFTER THE ABOVE D.B.IN
COURT NO. IV IS OVER.**

FOR FURTHER ORDERS(SINE-DIE CASE)

1	CP. 267/1999 O.A.1443/2008	ASHOK KUMAR V/s ASHOK PAWA	SH. S.C.LUHTRA ----- SH. K.C.D.GANGWANI
2	CP. 106/2001 O.A.1141/2000	PAYARENAND V/s DR. PUNJABI SINGH	SH. CHITRANJAN HATTI ----- SH. V.K.RAO
3	CP. 177/2001 O.A.1320/1999	S.K.AGGARWAL V/s S.P.MEHTA	SH. S.K.SAWHNEY -----
4	CP. 377/2001 O.A.1257/2000	AVINASH CHANDER V/s S.DASRATHI	SH. B.S.MAINEE ----- SH. H.K.GANGWANI
5	CP. 683/2001 O.A.1516/1999	SHAHID KHAN V/s S.R.DUA	IN PERSON ----- SH. VIJAY PANDITA
6	CP. 404/2001 O.A.1275/2000	O.P.SHARMA V/s K.KOSAL RAM	SH. SANT SINGH ----- SH.NEERAJ GOEL
7	CP. 447/2002 O.A.2504/2000	DEVENDER SINGH V/s JITENDER GUFTA	SH. H.P.CHAKRAVORTY ----- SH. D.S.JAGOTRA
8	CP. 321/2004 O.A.373/2003	JHAGAROO & ORS V/s R.R.JARUHAR	SH. S.K.SAWHNEY ----- SH. V.S.R.KRISHNA
9	CP.124/2005 O.A.1020/2004	BAL KISHAN V/s AJAY VIKRAM SINGH	SH. SARVESH BISARIA ----- SH. RAO VIJAY PAL
10	CP. 22/2009 MA 118/2009 O.A.2848/2005	RINKU SHARMA V/s B.ANAND	SH. L.R.KHATANA ----- SH. S.RAJAPPA
11	MA 1233/2004 O.A.1272/1999	LAKHMI CHAND V/s DEPTT. OF AGRICULTURE	SH. YOGESH SHARMA ----- SH. S.M.ARIF

12	O.A.1216/1999	D.CHAKRABORTY V/s U.O.I.-M/O WATER RES.	SH. M.K.GUPTA 35A ----- SH. S.M.ARIF
13	O.A.301/2000	ARUN KUMAR AGARWAL V/s U.O.I.-M/O RAILWAY	SH. B.S.MAINEE ----- SH. S.C.DHAWAN
14	O.A.1458/2001	N.RAM JI V/s CABT. SECTT.	SH. K.C.RANJITA ----- SH. K.R.SACHDEVA
15	O.A.2191/2000	RAM KANT SHUKLA V/s I.C.A.R.	SH. T.C.AGGARWAL ----- SH. C.BADRINATH
16	O.A.583/2005 WITH	NITIN KUMAR SUMAN V/s U.O.I.-M/ O H.R.D.	SH. SHYAM BABU ----- SH. ARUN BHARDWAJ
	O.A.3026/2004 MA 2548/2004	TRIPTI V/s N.C.E.R.T.	MS. SUMEDHA SHARMA ----- SH. ARUN BHARDWAJ
	O.A.2913/2004 MA 2427/2004	MS. HEM PRABHA BALI V/s N.C.E.R.T.	SH. SHYAM BABU ----- SH. ARUN BHARDWAJ
17	O.A.1778/2005	SURJEET SINGH V/s U.O.I.-M/O RAILWAY	SH. MANJEET SINGH REEN ----- SH. SATPAL SINGH
18	O.A.1496/2004	M.N.HAIDER V/s K.V.S.	SH. MANINDER ACHARYA ----- SH. S.RAJAPPA
19	O.A.339/2002	S.C.GAUTAM V/s U.O.I.-M/O PERSONNEL	SH.R.R.OJHA ----- SH. R.N.SINGH
20	O.A.986/2005	JEEVAN LAL V/s DELHI POLICEW	SH. S.K.GUPTA ----- SH. S.Q.KAZIM

21 O.A.2471/2005
WITH

RAVINDRA BHATT
V/s
DEPTT. OF AGRICULTURE

SH. S.M.GARG

MRS. JASMINE AHMED

O.A.2232/2005

RANBIR SINGH
V/s
U.O.I.

SH. S.M.GARG

SH. PROMILA SAFAYA

O.A.1800/2005

DILIP KUMAR SHUKLA
V/s
U.O.I.-M/O AGRICULTURE

SH. S.M.GARG

SH. A.K.BHARDWAJ

22 O.A.527/2004

CENTRAL ELECT & MECH ENG
CLASS-I / ASSN.
V/s

SH.SACHIN CHAUHAN

MA 502/004

U.O.I.-M/O U.D.
P.K.SAXENA
V/s

MS. AVINASH KAUR

23 O.A.1656/2004

U.O.I.-M;O COMM.

SH. S.N.ANAND

SH. SATISH KUMAR

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Item No.2 (Special Bench)

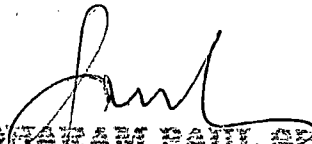
O.A.No.1458/2001

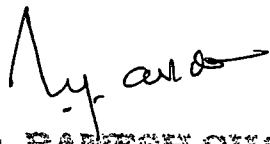
26.05.2010

Present : None for the applicant.

Shri K.R. Sachdeva, learned counsel for the respondents.

Counsel for the respondents seeks two weeks' time to file additional affidavit furnishing all information and status of the matter as directed on earlier occasion. The same is granted, List it on 4.7.2010.


(Dr. DIKRAM PAUL SHARMA)
MEMBER (J)


(Dr. RAMESH CHANDRA PANDA)
MEMBER (A)

/ravi/

— Addl. Affidavit Filed

Item NO.2

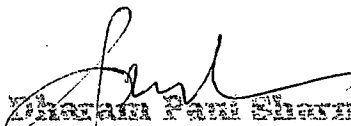
G.A.No.1458/2001

14.07.2010

Present : Shri Ajit Pudussery, learned counsel for the applicant.
Shri K.R. Sachdeva, learned counsel for the respondents.

Since Division Bench is not available, the case is adjourned to

19.7.2010.


(Dr. Dharam Paul Sharma)
Member (A)

/ravi/

Adj Case

Item No.11

OA No.1458/2001

19.07.2010

Present : None for the applicant.

Shri K.R. Sachdeva, counsel for respondents.

List on 26.07.2010.

(Dr. Dharam Paul Sharma)
Member (J)

(Dr. Ramesh Chandra Panda)
Member (A)

/rk/

Police

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**Central Administrative Tribunal
Principal Bench**

OA No 1458/2001

New Delhi, this the 26th day of July, 2010

Hon'ble Dr. Ramesh Chandra Panda, Member (A)
Hon'ble Dr. Dharam Paul Sharma, Member (J)

Shri N. Ramji, IAS (Retd.),
Formerly Managing Director
TRIFED
2nd Floor, NCUI Building,
3, Siri Institutional Area
August Kranti Marg,
New Delhi.

Formerly Principal Secretary,
Department of Forest
through Chief Secretary
Government of West Bengal,
Writers Building,
Kolkata 700 001.

... Applicant.

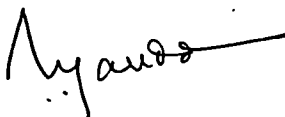
(By Advocate : None)

Versus

1. The Union of India,
Through the Cabinet Secretary,
Government of India,
South Block,
New Delhi.
2. The Secretary,
Department of Personnel and Training,
Ministry of Personnel,
Government of India,
North Block, New Delhi.

.... Respondents.

(By Advocate : Shri K.R. Sachdeva)



: O R D E R (ORAL) :

Dr. Ramesh Chandra Panda, Member (A)

Shri N. Ramji, belonging to 1966 batch of the Indian Administrative Service (IAS) of the West Bengal cadre approached this Tribunal under Section 19 of the Administrative Tribunals Act, 1985 with the prayer to issue direction to the Respondents to empanel him for promotion to the post of Secretary to the Govt. of India, as number of his batchmates and juniors were then considered, empanelled and promoted to the post of Secretary, Govt. of India. Inter alia, it was averred that the Applicant had been discriminated and as such it was violative of Article 14 and 16 of the Constitution of India.

2. While the OA was under adjudication, it was contended on behalf of the Respondents by Shri K.R. Sachdeva, learned Counsel, during the hearing in the Tribunal on 24.02.2003 that the Applicant was appointed vide order dated 07.02.2003 as Secretary, North-Eastern Council at Shilling. Shri K.R. Sachdeva on that day produced a copy of a fax message from the Government of West Bengal intimating that the Applicant had expressed his un-willingness to accept such offer of Central deputation at North-Eastern Council Secretariat, Shillong. Then it was contended that Respondents had done whatever was expected of them and nothing further remained to be considered. However, after hearing the learned counsel for

parties on 24.02.2003, Respondents were directed to produce relevant records whereunder Applicant's appointment was ordered.

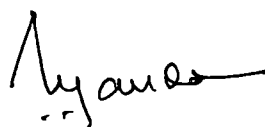
This Tribunal passed the following order on that day :-

"Shri K.R. Sachdeva, learned counsel for respondents produced before us a copy of office order No.6/6/2003-EO(SM-I) dated 7.2.2003 wherein it is stated that the Appointments Committee of the Cabinet has approved the appointment of Shri N. Ramji, IAS (WB-66), presently in the Cadre, as Secretary, North-Eastern Council Secretariat, Shillong. He also produced a copy of a Fax message from the Govt. of West Bengal dated 20.2.2003 indicating that Shri Ramji has expressed his unwillingness to accept the offer of his Central Deputation as Secretary in the North Eastern Council Sectt., Shilling. Shri Sachdeva points out that the respondents have done whatever was expected of them and nothing further remained to be performed.

Shri Jayant Das, learned Sr. counsel for the respondents points out that the applicant was empanelled only after approaching the Tribunal in earlier OA..... Thereafter, more than one year has gone by and over 60 individuals who were empanelled, most of whom were his juniors had been appointed to Secretary level posts, without appointing him as Secretary, leading to filing of this OA. The present appointment was more of formality than dispensation.

We note that during the last hearing on 16.1.2003 we had desired that the respondents should produce the relevant records to ascertain as to how the applicant's name though was placed in the panel, was not included for appointment as Secretary. The file produced before us today only relates to the issuance to the order appointing the applicant as Secretary North Eastern States Council at Shilling and this file has been initiated on 30.1.2003, obviously after the receipt of direction on 16.1.2003. This does not satisfy us. What we require is the production of the relevant records whereunder appointments were ordered, following the applicant's empanelment but without promoting him. This would have to be done. Respondent are directed to do so by the next date of hearing i.e. 2.4.2003.

We also direct that a copy of this order be issued to both the parties."



3. On the above directions of this Tribunal, the Respondents approached the Hon'ble High Court in Writ Petition, which was considered by the Hon'ble High Court and the said Writ Petition was dismissed. This information was furnished to the Tribunal by Shri Sachdeva, learned counsel for the Respondents during the hearing on 16.07.2003. Subsequently on 20.10.2003, when the case came up for hearing, it was informed that the Respondents have filed **SLP No.18111/03** before the Hon'ble Supreme Court with a prayer to direct this Tribunal not to insist for production of relevant records. On that day, the Tribunal after considering the facts of SLP No.18111/03 pending before the Hon'ble Supreme Court, adjourned the OA *sine-die* with liberty to either of the parties to revive the same at the appropriate stage.

4. As considerable time has elapsed, this case was taken up on 07.05.2010 and Shri K. R. Sachdeva, the learned counsel for respondents, who was present was directed to inform the status or the final outcome of the SLP No.18111/2003 which was earlier pending in the Hon'ble Supreme Court. To our direction, the Respondents have filed an Additional Affidavit on 01.07.2010, submitting that Hon'ble Supreme Court has considered the facts and disposed of the matter. We take extract of judgment of Hon'ble Supreme Court, which reads as follows :-

"Leave granted.

Looking to the subsequent developments in the matter, namely, the empanelment of the respondent as well as the order of his

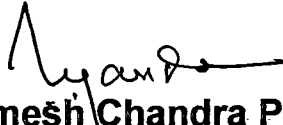
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posting as the Secretary in the North-Eastern Council, Shillong, we feel that it would not be necessary for the Tribunal to call for the record and peruse the same as in our view, it may have no relevance any more. Since, however, it is indicated on behalf of the respondent, that on health ground, the posting in Shillong was not suitable for him, therefore, he had declined to join that post, we would like to observe that the appellants may fairly and expeditiously consider his alternative posting at some other place. Learned Attorney General appearing for the appellants, submits that the question of his posting would be duly considered by the appellants.

The appeal stands finally disposed of in the manner indicated above."

5. Taking into account the above judgment of the Hon'ble Supreme Court issued on 02.12.2003, we find from the additional affidavit filed by the Respondents that the Appointments Committee of the Cabinet considered the said judgment and decided to allow him to retire from his parent cadre. Accordingly, the Applicant has retired on superannuation on 31.03.2004. Considering the above facts and circumstances of the case, nothing survives in this OA. The OA is, therefore, disposed of. No costs.


(Dr. Dharam Paul Sharma)
Member (J)


(Dr. Ramesh Chandra Panda)
Member (A)

/rk/