

19

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI

O.A. NO.1855/2001

This the 22<sup>nd</sup> day of November, 2002.

HON'BLE SMT. LAKSHMI SWAMINATHAN, VICE-CHAIRMAN (J)

HON'BLE SHRI V.K.MAJOTRA, MEMBER (A)

1. V.P.Sharma, Sty. No.8  
S/O R.R.Sharma,  
60-K CBI Colony, Vasant Vihar,  
New Delhi.
2. S.S.Sandhu, Sty. No.11  
S/O Pritam Singh,  
50 K CBI Colony, Vasant Vihar,  
New Delhi.
3. U.K.Goswami, ACB Sty. No.9  
S/O D.N.Goswami,  
57-A, CBI Colony, Vasant Vihar,  
New Delhi.
4. Harikesh ACVII Sty. No.9  
S/O Fakriya Ram,  
L-1, 248-B, DDA Flats,  
Kalkaji, New Delhi.
5. Ghanshyam Rai SIG Sty. No.29.  
S/O Bansidhar Rai,  
R/O 237-F, Phase-I, Pocket-I,  
Mayur Vihar, New Delhi.
6. P.Mukherjee BS&FC Sty. No.67  
S/O R.G.Mukherjee,  
61-P, CBI Colony, Vasant Vihar,  
New Delhi.
7. S.C.Dandriyal SIUX Sty. No.52  
S/O M.N.Dandriyal,  
A-1-C, Avantika Enclave,  
Kanyhawala Road, Delhi.
8. P.Balachandran ACB Sty. No.73  
S/O K.Prabhakaran Pilley,  
59-J, CBI Colony, Vasant Vihar,  
New Delhi.
9. Ajay Kumar ACB Sty. No.75  
S/O Jagdish Prasad,  
56-K, CBI Colony, Vasant Vihar,  
New Delhi.
10. S.Balasubramony SIUIX Sty. No.84  
S/O Late Seghan,  
R/O 56-FCBI Colony, Vasant Vihar,  
New Delhi.

11. Rajeev Diwedi SIC-U Sty. No.87  
S/O N.C.Dwivedi,  
56-D CBI Colony, Vasant Vihar,  
New Delhi.
12. K.Babu ACUI Sty. No.91  
S/O B.C.Kachu Kunju,  
57-H, CBI Colony, Vasant Vihar,  
New Delhi.
13. Jayant Kashmiri ACB Sty. No.95  
S/O H.N.Midm,  
51-P CBI Colony, Vasant Vihar,  
New Delhi.
14. Ravi Gambhir SIC-II Sty. No.99  
S/O R.L.Gambhir,  
59-F, CBI Colony, Vasant Vihar,  
New Delhi.
15. H.C.Sharma BS&FC Sty. No.44  
S/O J.C.Sharma,  
237-E, Pocket-1,  
Phase-I, Mayur Vihar, Delhi.
16. S.S.Kishore BS&FC Sty. No.41  
S/O Satyadev Sinha,  
L-1, 261-B DDA Flats,  
Kalkaji, New Delhi-19.
17. Roy Alexander BS&FC Sty. No.79  
S/O P.S.Alexander,  
57-K, CBI Colony, Vasant Vihar,  
New Delhi.

... Applicants

( By Shri Madhav Panikar, Advocate )

-versus-

1. Union of India through  
Secretary, Department of Personnel  
& Training, Ministry of Personnel,  
Public Grievances & Pensions,  
New Delhi.
2. UPSC through Secretary/Chairman,  
Dholpur House, Shahjahan Road,  
New Delhi.
3. Director,  
Central Bureau of Investigation,  
CGO Complex, Lodhi Road,  
New Delhi.

... Respondents

( By Shri M.M.Sudan, Advocate )

#### O R D E R

Hon'ble Shri V.K.Majotra, Member (A) :

Applicants are inspectors in Central Bureau of  
Investigation (CBI) for the last over 9-16 years. They



are aggrieved by the action of respondents in reducing their promotional avenues in spite of the Ministry's own admission before the Fifth Central Pay Commission (CPC) that there was need to increase promotional avenues for CBI cadre officers. The action of respondents is also stated to be against the recommendations of the Fifth CPC.

2. According to applicants, the Special Police Establishment (Executive Staff) Recruitment (Amendment) Rules, 1987 notified on 31.3.1987 (Annexure P-III), stipulate that 30% of the vacancies of Deputy Superintendents of Police (Dy.SP) are required to be filled by way of promotion, 50% by way of transfer on deputation/transfer and 20% by way of direct recruitment. Low quota for promotion of departmental Inspectors resulted in stagnation and discontentment among the cadre Inspectors' rank. Recruitment rules were amended on 1.2.1997 (Annexure P-VII) wherein though the quota of promotion was raised from 30% to 50%, the absorption clause was not deleted. It has been stated on behalf of applicants that in the 13th Report of the Estimates Committee from the financial year 1991-92 presented in the Lok Sabha on 6.4.1992, it was assured by the Ministry/Department that deputation quota for the post of Dy.SP would be revised from 50% to 30% and the promotion quota would be increased from 30% to 50%. The Ministry also informed the Fifth CPC that they had already decided to enhance the quota of promotion from 30% to 50% and to delete the provision for absorption of deputationists.

*Vb*

The Fifth CPC, on the basis of the admissions made by the Ministry, recommended that the proposed amendment would be adequate. However, vide impugned Annexure P-I dated 7.9.2000, the Central Bureau of Investigation (Senior Police Posts) Recruitment Rules, 2000 were notified wherein the minimum qualifying period of promotion of Inspector to the post of Dy.SP was increased from 5 to 8 years and the quota for promotion was again reduced from 50% to 40%. These provisions have enhanced avenues for deputationists from various organisations and caused stagnation in the rank of Inspector in CBI. Applicants have sought the following reliefs :

- "(a) declare that the action of respondents in reducing the promotion quota of departmental candidates from Inspector to Dy.SP while increasing the quota of deputation is illegal, arbitrary and unsustainable in law as such is liable to be quashed;
- (b) the absorption clause for deputationists is bad in law and is liable to be quashed and set aside;
- (c) Inspector are entitled to the promotion quota on the same lines as is being in other Central Police Organisations as there is no deputation upto the level of Sr.SP;
- (d) to direct the respondents to consider revising the Recruitment Rules of Dy.SP on the lines of relief(s) claimed above by increasing the promotional quota of departmental Inspectors while deleting the clause of absorption from the R.Rs of September, 2000;
- (e) to direct the Respondents to revise the Recruitment Rules in respect of minimum qualifying period for promotion as per Ministry's own guidelines issued vide O.M. No.AB-14014/2/97-Estt.(RR) dated 25.5.98;
- (f) and/or to pass such other order/orders that Your Lordships may deem fit and proper."

3. The learned counsel of respondents stated that the recruitment rules are statutory and cannot be amended on the basis of certain proceedings which have taken place before the CPC or on the basis of some statements before the Parliamentary Committees. According to him, the recruitment rules for the post of Dy.SP have been prepared keeping in view the requirements of the organisation. Since there were not enough officers in the feeder grade, a higher percentage of quota of promotion in the rank of Dy.SP was not provided. As per rules there must be 3-4 times of officers in the feeder grade when increase of such quota is recommended. The Parliamentary Standing Committee in its 44th Report on the Demands of the Ministry of Personnel, Public Grievances and Pensions for 1998-99 had recommended that 50% of the sanctioned posts at the level of DIG and Joint Director be filled by promotion of permanent cadre officers of CBI. CBI has acquired expertise in investigation of anti corruption cases but CBI officers do not have desired exposure to investigation of conventional economic offences. As per the recommendations of the Fifth CPC, two new grades in the rank of Addl.SP and Sr.SP have been created. In view of the above, it was decided by the government that the present system of inducting investigating officers and supervisory officers on deputation was more suitable to the requirements of CBI. The learned counsel stated that CBI is basically a deputationists-based organisation.

4. We observe that as per recruitment rules of 1987, 50% posts of Dy.SP were to be filled on deputation



and 30% on the basis of promotion of departmental Inspectors. In 1997, the rules were amended to provide for filling up of 50% of posts of Dy.SP by promotion. There is no gainsaying that the 13th Report of the Estimates Committee noted that the department was trying to revise the promotion quota from 30% to 50%. The Ministry had informed the Fifth CPC also that the quota of promotion was being increased from 30% to 50% and provision for absorption of deputationists was also being deleted. However, later on, by Annexure P-I recruitment rules were modified to reduce the quota of promotion from 50% to 40%. It is observed that whereas the promotion quota of CBI Inspectors was increased in the year 1997, it was decreased in the year 2000. Allocation of quotas among deputationists, departmental candidates and direct recruits is basically a policy matter which ~~be~~ is dependent on various factors and data. Decision to prescribe such quotas is a policy matter dependent on administrative exigencies. Such a policy decision is not open to judicial review unless it is mala fide, arbitrary or bereft of any discernible principle.

5. An expert body like the CPC or the Government themselves have essential data and expertise with them to decide such matters. The present matter, therefore, does not fall within the ambit of the Tribunal. Further, in our judgment, recruitment rules which are of a statutory nature cannot be assailed merely on the ground that the same are not in consonance with certain proceedings of the Parliamentary Committee or proceedings that had taken place before the Fifth CPC, and the recommendations made

↓

by the CPC. It is always open to the Government to take their independent decisions and frame recruitment rules which may contain provisions which are at variance with such recommendations. The above observations find support from order dated 26.3.2001 in OA No.773/2001 : *Naveen Goyal v. Union of India & Ors.*

6. Present OA in the circumstances, we find, is devoid of merit which is dismissed. However, it would not stop the Government to reconsider the question of increasing the promotional quota of departmental Inspectors of CBI while deleting the clause of absorption from the recruitment rules of September, 2000, at the appropriate time. No costs.

V.K. Majotra  
( V. K. Majotra )  
Member (A)

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

/as/