

(5)

Central Administrative Tribunal  
Principal Bench

O.A. No. 2836 of 2001

New Delhi, dated this the 5th March, 2002

HON'BLE MR. JUSTICE ASHOK AGARWAL, CHAIRMAN  
HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

1. Balbir Singh  
S/o Late Sh. Sahab Ram  
208 I.I.T.Gate Police Colony  
Hauz Khas, New Delhi-16.
2. Nagender Singh Amethia  
S/o Sh. Ram Kripal Singh  
G-46 Nanak Pura,  
New Delhi-21
3. Hawa Singh  
S/o Late Sh. Bhale Ram  
R/o C-1(SHO Flat)  
Police Station Patel Nagar  
New Delhi-110008.
4. Shakti Singh  
S/O Sh. har Parshad  
Q.No. 240, Sector-3  
R.K.Puram,  
New Delhi. ....Applicants.

(By Advocate: Shri M.K.Gupta)

Versus

1. Union of India  
Through its Secretary,  
Ministry of Home Affairs,  
North Block, New Delhi-110001.
2. Lt. Governor,  
Govt. of National Capital Territory  
of Delhi,  
Raj Niwas, Delhi-110054.
3. Commissioner of Police,  
Police Headquarters,  
I.P. Estate, New Delhi-110002.
4. Union Public Service Commission,  
Through its Secretary,  
Dholpur House, New Delhi-110003.
5. Sh. P.K. Jalali,  
Joint Secretary (UTS)  
Ministry of Home Affairs,  
North Block, New Delhi-110001.
6. Sh. Raj Kumar  
H.No.4C Type III,  
Police Colony Model Town,  
Delhi.

7. Sh. Sat Pal Dhawan  
1D, Type 11,  
Police Colony Model Town  
Delhi.
8. Sh.K.N.Haridas  
1143, Sector 4  
R.K. Puram, New Delhi.
9. Sh.N.D. Bhardwaj  
S/o. Late Sh. Murari Lal Bhardwaj  
C-7/99, Yamuna Vihar  
Delhi-53.
10. Sh.Ram Kishan  
H.No. 128, A-3, Sector 5  
Rohini, Delhi.
11. Sh.Jia Lal Sawhney D-I.556  
S/o Late Sh.D.C. Sawhney  
1046/viii, R.K.Puram  
New Delhi-110021.
12. Sh. Bhag Singh, DI-177  
R/o A-5, Old Police Lines  
Rajpura Road, Delhi.
13. Sh. Harish Chander Joshi D-1/195  
S/o Late Sh.D.D. Joshi  
R/o H-140, R.K.Appts, I.P.Ext.  
Patpar Ganj  
Delhi.110092.
14. Subhash Chander Batra D-1/214  
S/o Sh.F.C. Batra  
R/o C-2/276 Janakpuri  
Delhi.
15. Sh. Gurbax Singh  
1329, Sector 4,  
R.K. Puram,  
Delhi.
16. Sh.Rajender Kumar  
F-1, P.S.Lodi Colony  
New Delhi.
17. Sh.Tola Ram Mirwani DI-598  
S/o Sh.P.R. Mirwani  
241-EMIG flats Rajouri Garden,  
Delhi.
18. Sh. Dharam Pal  
437, Sector 30,  
NOIDA.
19. Sh. Abhey Ram,  
115 Ad, Pitam Pura,  
Madhuban chowk,  
Delhi.
20. Sh. Shyam Sunder,  
S/o Sh.Shiv Charan Chaturvedi,  
R/o Flat No.2/B,Ujjawal Apptt.  
Vikas Puri, New Delhi-110018.

21. Sh. Hanuman Singh  
D-81, New Multan Nagar  
Rohtak Road,  
New Delhi

22. Sh. Hukum Chand Rana DI-235  
S/o Sh. Giani Ram  
G-7/36, Sector 11  
Rohini, Delhi.

23. Sh. Vijay Singh Chauhan,  
189, Dhaka Colony  
K.W. Camp,  
Delhi.

24. Sh. Ramesh Chand Gard  
B-7/32 Safdarjang Enclave  
New Delhi.

25. Sh. Sardar Singh Bhalla DI-240  
S/o Late Sh. Jagannath Bhalla  
R/o Block No. 251-B, MIG Flat  
Rajouri Garden,  
New Delhi.

26. Sh. Nawal Singh  
F-2 P.S. Kalkaji  
New Delhi.

27. Sh. Lala Ram Gautam  
174, Police Colony I.I.T. Gate  
New Delhi.

28. Sh. Mohinder Singh Virdi  
C-86 New Police Lines  
Delhi.

29. Sh. Rajpal  
C-3, Police Colony  
P.S. Rajouri Garden  
New Delhi.

30. Sh. Moti Lal Sharma  
117, H Block, Phase-1  
Police Colony,  
Ashok Vihar,  
Delhi.

31. Amar Singh,  
40-F P.S. Hari Nagar,  
Delhi. .... Respondents.

(By Advocate: Shri Rajinder Nishal)

ORDER (Oral)

S.R. ADIGE, VC (A)  
 Applicants impugn respondents' order dated 5.10.2001 (Annexure A-1) promoting 26 Inspectors of Police to Grade-II of NCT of Delhi, Andaman & Nicobar Islands, Lakshadweep, Daman & Diu and Dadra & Nagar Haveli Police Service with immediate effect for the period of six months or till the posts were filled up on regular basis, whichever is earlier. They seek a declaration that respondents Nos.1 and 5's action in promoting Respondents Nos. 6 to 31 to Grade II is illegal and arbitrary; and a direction to Respondent No.1 to hold regular DPC.~

2. We have heard applicants' counsel Shri M.K.Gupta and respondents' counsel Shri Rajinder Nischal.

3. The case of the applicants is that they are working as Inspectors in Delhi Police and their names appear at Sl.No.14, 41, 53 and 56 respectively in the integrated seniority list of Inspectors of Police vide respondents' Circular dated 3.9.2001 (Annexure A-2). They contend that Rules have been framed by Respondent No.1 known as National Capital Territory of Delhi, Andman and Nicobar Islands, Lakshdweep, Daman and Diu and Dadra and Nagar Haveli Police Service Rules, 1998 (for the sake of brevity hereinafter referred to as "the Rules"). Their contention is that as per these Recruitment Rules framed in 1998, an Inspector with 3 years' regular service is eligible for promotion to the next higher grade i.e. Grade II and 50% of the aforesaid posts are to be filled up through direct recruitment on the basis of Civil Service Examination conducted by UPSC,

and 50% by promotion.

4. The grievance of the applicants in this OA is three fold namely

"i) the Central Govt. has no power to make adhoc promotion to the said Grade as no such provision which existed under the earlier rules, is found available in the 1998 Rules;

ii) the adhoc promotion granted vide order dated 5.10.2001 is violative in view of the Hon'ble Suprme Court's ruling UOI Vs. N.R.Banerjee as well as directions issued by the Tribunal in OA No.528/98 vide its order dated 27.5.99; and

iii) the impugned order dated 5.10.2001 is also violative of DOP & T's OM dated 30.3.88."

5. Respondents in their reply challenge

the OA. They state that in order to fill up the vacancies pertaining to the direct recruitment quota in the said grade, requisition had been placed for making available candidates selected on the basis of CSE,2000 and 2001. It is further stated that action has also been initiated to convene the meeting of DPC to fill up the existing vacancies in the promotion quota in the said grade, by preparing a provisional integrated seniority list of the eligible Inspectors of Police working in the Delhi Police, Andaman & Nicobar Islands Police, Ladshadweep Police, Daman and Diu Police and Dadra & Nagar Haveli Police, and inviting objections from them. The said provisional seniority list would be finalised after the objections received to the said list are disposed of. It is further stated that meanwhile a request was received from the Commissioner of Police to fill up the existing vacancies in the said grade on an emergent basis, as this was adversely affecting the police administration in NCT of Delhi.

Accordingly, considering the fact that regular appointments against these vacancies by promotion, and by direct recruitment, would take some more time, respondents decided to fill up the existing vacancies by adhoc promotion from amongst the eligible Inspectors of Police. It is stated that for this purpose, a meeting of Screening Committee was held on 1.10.2001 to assess the suitability of the eligible officers for their ad hoc appointment against 26 vacancies and based on recommendations of the said Committee, 26 Officers were promoted on adhoc basis to Grade II for a period of 6 months or till the posts were filled up on regular basis, whichever was earlier vide Home Affairs' Ministry's order dated 5.10.2001. It is specifically stated that applicants were amongst the eligible officers considered by the said Screening Committee but they were not recommended by the Committee for adhoc promotion as they were found unfit on the basis of assessment of their overall performance.

6. We have given the matter our careful consideration.

7. While it is no doubt true that the earlier rules did contain a provision for adhoc appointment to Grade II, which has been deleted in the 1998 Amended Rules, our attention has specifically been invited to Para 11 of the Tribunal's order dated 27.5.99 in OA No.528/98 Nem Dutt Bhardwaj & Ors., wherein after taking into account the provisions of the 1998 Rules, the Tribunal has specifically observed as follows:

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"It would be opposite to mention here that we cannot conceive of a situation where there will be no ad hoc appointments, particularly for an expanding organisation like Delhi Police. Exigencies of service may warrant issuing such orders more often than not."

8. The aforesaid order dated 27.5.99 has not been shown to us to have been stayed, modified or set aside, and in the light of the specific observations extracted above, we are not in a position to hold that merely because the 1998 Rules do not contain any provision for making adhoc appointments in Grade II, respondents are precluded to make such appointments. We are fortified in our view by the contents of Para 3(b) of Chapter 20 (Annexure-6) entitled Adhoc Appointment/ Promotions as contained in Swamy's Complete Manual on Establishment and Administration 18th edition which reproduces DOP & T's OM dated 30.3.88. The aforesaid para 3 discusses the circumstances where appointments can be made on ad hoc basis, and Para 3 (b) includes circumstances where the direct recruit quota has not <sup>1</sup>been filled, and the Recruitment Rules also do not provide for filling it up on transfer or deputation temporarily, and the post cannot also be kept vacant, as in the present case.

9. In the light of aforesaid Para 3 (b), it is clear that respondents are not precluded from making adhoc appointments in Grade II where the exigencies of service may warrant such appointments and it is also not denied that applicants' cases for adhoc promotion have been considered by a duly constituted Screening Committee along with the others, but they could not make the grade.

10. What is necessary now to ensure is that these adhoc appointments are not allowed to continue indefinitely at the cost of regular appointments. It is in this context that the Tribunal in its order dated 27.5.99 in Nem Dutt Bhardwaj's case (Supra) after noticing that adhoc appointments had continued for great length of time and no DPC has been held since 1992, quashed the adhoc appointments prospectively and directed respondents to hold regular DPC in a phased manner and on yearwise basis.

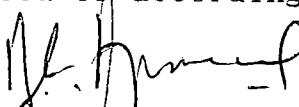
11. We are in full agreement with the ratio in Nem Dutt Bhardwaj's case (Supra) and in the facts and circumstances of the case we are also clearly of the opinion that the adhoc appointments made by impugned order dated 5.10.2001 should be dispensed with as expeditiously as possible and regular promotions to Grade II should be made thereafter.

12. In this connection we are of the considered opinion that as the provisional seniority list has been circulated by respondents on 3.9.2001 for inviting objections, it should be possible for respondents to finalise the seniority list after disposing of the objections within 2 months from the date of receipt of a copy of this order. We are also of the view that as UPSC will take some time

to make regular promotions on the basis of seniority so finalised and in our opinion, it should be possible for UPSC to ~~make~~ <sup>recommend</sup> regular promotions within a period of 3 months from the date the said final seniority list is published.

13. Under the circumstances we dispose of this OA with a direction to respondents No.1, 2 and 3 to finalise the seniority list of Inspectors of Police circulated vide Order dated 3.9.2001 by disposing of the objections which had been invited, within 2 months from the date of receipt of a copy of this order and on the basis of seniority list so finalised, we call upon Respondent No.4 (UPSC) to recommend regular promotions to Grade II within 3 months thereafter.

14. The OA stands disposed of accordingly.  
No costs.

  
(Ashok Agarwal)  
Chairman

  
(S.R. Adige)  
Vice Chairman(A)

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