

Central Administrative Tribunal
Principal Bench

O.A. No. 460 of 2001
New Delhi, dated this the 19th February 2002

(B)

Hon'ble Mr. S.R. Adige, Vice Chairman (A)
Hon'ble Mrs. Lakshmi Swaminathan, Vice Chairman (J)

1. Shri Jai Prakash Narain,
Asst. Director (O.L.),
Directorate of Revenue Intelligence,
'D' Block, I.P. Estate,
New Delhi-110002.

2. Smt. Usha Ghai, .. Applicants
Asst. Director (O.L.),

(By Advocate: Shri G.D. Bhandari)

Versus

Union of India through

1. The Secretary,
Ministry of Finance,
Dept. of Revenue,
New Delhi.

2. The Chairman & Special Secretary,
Central Board of Excise & Customs,
Dept. of Revenue,
Ministry of Finance,
North Block, New Delhi.

3. The Jt. Secretary,
Dept. of Revenue,
Ministry of Finance,
Central Board of Excise & Customs,
North Block, .. Respondents
New Delhi.

(By Advocate: Ms. Promila Safaya)

ORDER

S.R. ADIGE, V C (A)

Applicants impugns respondents' order dated 28.9.2000 (Annexure A-1) promoting them as Assistant Director (Official Language) on regular basis w.e.f. 8.9.2000 or the date they assume charge of the post, whichever is later, and seek a direction that they be deemed members of the service from the date of their initial ad hoc promotion, which in the case of

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applicant No.1 is 26.9.84 and in the case of applicant No.2 is 17.1.95. Consequential benefits have also been prayed for.

(A)

2. Heard.

3. As per the averments contained in the O.A., applicant No.1 began service as Auditor on 5.8.71. While working as auditor, he applied for the post of Sr. Hindi Translator in SSC, Allahabad and was selected as such and posted as Sr. Hindi Translator under Narcotics Commissioner, Gwalior. While working as Sr. Hindi Translator he was promoted as Hindi Officer (since redesignated as Asst. Director, Official Language) on ad hoc basis on 26.9.84. In Para 4.8 of the O.A. it is stated that while working as such on ad hoc basis applicant was sent from time to time on deputation to All India Radio, Gauhati and Patna and to Ministry of Home Affairs, New Delhi. In regard to applicant No.2 it is stated that she was appointed as Translator on 19.5.76 under Directorate General, Inspection, Customs and Central Excise, New Delhi and was promoted as Sr. Hindi Translator on 23.4.85. She was promoted as Assistant Director on ad hoc basis on 17.1.95 and has been continuously working as such. Both officers have been regularly promoted as Assistant Director (OL) w.e.f. 8.9.2000 or the date they assume charge of the post, whichever is later.

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4. In this connection applicants have not denied in rejoinder the specific averments of respondents in para 4.4 of the O.A. that when applicant No.1 was appointed as Hindi Officer (since redesignated as Assistant Director, O.L.) on ad hoc basis on 26.9.84, no Recruitment Rules for the post of Hindi Officer/A.D. (OL) were in existence.

5. Applicants have also not denied in rejoinder the specific averments of respondents contained in paras 4.8 and 4.13 of the O.A. that after the Recruitment Rules had come into existence, the ad hoc promotion of applicants was ordered/continued against direct recruitment-cum-deputation quota vacancies, and not against promotion quota vacancies.

6. In other words, granting the relief claimed by applicants in the present O.A. will amount to regularising them against posts outside their own quota viz. promotional quota, and would thus lead to violation of the Recruitment Rules which have been promulgated under Article 309 of the Constitution.

7. The Direct Recruits Case (1990) 2 SCC 715 and indeed the other rulings relied upon by applicants' counsel cannot be construed in a manner

which would result in violation of the Recruitment
Rules.

(B)

8. The O.A., therefore, warrants no
interference. It is dismissed. No costs.

Lakshmi Swaminathan
(Mrs. Lakshmi Swaminathan)
Vice Chairman (J)

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

karthik