

(21)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.NO. 773/2001

New Delhi, this the 13th day of February, 2004

HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN
HON'BLE SHRI S.K.NAIK, MEMBER (A)

1. Navin Goyal,
S/o Shri O.P.Sahuwala
aged 28 years
Dy. S.P., CBI
Anti-Corruption Branch, CBI
Tanna House, Colaba,
Mumbai.
2. Sudhanshu Kumar Khare
S/o Shri M.L.Khre
Aged 29 years
Dy. S.P. CBI
Anti-Corruption Branch
Dr. S.K.Singh Path
Bailey Road, Patna.
3. Venkateswarlu Chandu
S/o Shri Surya Narayana
Aged 28 years
Dy. S.P. CBI, Economic
Officers wing, CBI
3rd Floor A-Wing, Rajaji
Bhawan, Basant Nagar,
Chennai.
4. Sameer Rewal
s/o Late Shri S.K.Rewal
aged 27 years
Dy. S.P. CBI, BS & FC CBI
6th Floor NDMC Building
Yashwant Place
New Delhi - 21.
5. Dilip Kumar Barik
s/o Shri Maheshwar Barik
AGED 34 YEARS
Dy. S.P. CBI,
Anti-Corruption Branch
Block 4 CGO Complex 1st Floor
Lodhi Road, New Delhi-110 003.
6. Mandeep Choudhary
s/o Shri Harnam Choudhary
Aged 28 years
Dy. S.P.CBI, Anti Corruption
Branch, 24, New Rehari Gopal
Bhawan, Jammu.
7. Dr. Sushil Kr. Gupta
Aged 31 years
Dy. S.P. CBI, SIC-I CBI
C-1 Hutments, Dalhousie Road
New Delhi - 110 011.

- 22
8. Madhu Sudan Singhal
s/o Shri Kishan Lal Singhal
Aged 28 years
Dy. S.P. CBI, Anti
Corruption Branch, CBI
Block-4 DGO Complex 1st Floor
Lodhi Road,
New Delhi - 110 003.
 9. Prahshant Kumar
Aged 26 years
Dy. S.P. CBI, Economic
Offence Wing CBI, 7th Floor
Yaswant Place,
Chankya Puri,
New Delhi - 110 021.
 10. Nittin Duggal
Aged 26 years
Dy. S.P. CBI, Special Crime
Branch, CBUI
Block No.4 CGO Complex
2nd Floor Lodhi Road
New Delhi - 110 003.
 11. T.Rajah Balaji
s/o Shri C.Thiagarajan
Aged 29 years
DSP, CBI, ACB
Ganga Nagar, Bellary Road
Bangalore - 560 032.
 12. Vivbek Priyadershi
s/o Sh. C.B.Arya
Aged 28 years
DSP, CBI, SIG-I, CBI
Block No.CGO Complex
Lodhi Road
New Delhi - 110 003.
 13. Nirbhay Kumar
s/o Sh. S.V.Saxena
Aged 26 years
DSP, CBI, ACB
Block No.4, CGO Complex
Lodhi Road
New Delhi - 110 003.
 14. Sh. Ashish V. Joshi
S/o Sh. Vinod Joshi
DSP, CBI, Anti Corruption
Branch, Dr. S.K.Singh Path
Bailey Road, Patna.
- ... Applicants
- (By Advocate: Sh. Salman Khurshid, Sr. Counsel
with Sh. A.K.Behera and Sh. Intiaz
Ahmed)
- Versus
1. Union of India through
The Director, CBI
CBI HO, Block No.3
CGO Complex, Lodhi Road
New Delhi - 110 003.

2. The Secretary
Ministry of Personnel, Public
Grievances & Pensions
North Block
New Delhi - 110 001.

3. The Secretary
Union Public Service Commission
Dholpur House
Shahjahan Road
New Delhi.

... Respondents

(By Advocate: Sh. M.M.Sudan)

O R D E R

Justice V.S. Aggarwal:-

The applicants were appointed as Deputy Superintendent of Police, Group 'A' in the Central Bureau of Investigation (for short 'CBI'). Their selection was on basis of Combined Civil Services Examination held by the Union Public Service Commission (for short 'UPSC') in different years from 1995 to 1997.

2. Earlier the post of Deputy Superintendent of Police in CBI had been classified as Group 'B' post. Subsequently, the post of the Deputy Superintendent of Police in CBI was reclassified as Group 'A' post vide notification dated 1.2.1997. When the post was declared and classified as Group 'A', the candidates of 1995 Civil Services Examination were intimated of it. They were required to revise their preferences for various services in the light of the said declaration. On this recommendation, the applicants changed their preferences.

3. The applicants contend that after joining as Deputy Superintendent of Police in Central Bureau of Investigation, though the posts of Deputy

CS Aggarwal

Superintendent of Police have been reclassified as Group 'A', the benefit of the other classified Group 'A' services/posts have not been given to the holders of the said posts. For example, it is stated that in all Group 'A' posts/services, the entry level is in the time scale of Rs.8000-13500. This is followed by Senior Time Scale of Rs.10000-15200 on completion of 4 years of service. Though the posts of Deputy Superintendent of Police in Central Bureau of Investigation have been classified as Group 'A' posts, yet the same conditions of service as given in all other Group 'A' services/posts have not been accorded to the applicants. As per the new recruitment rules of 7.9.2000, the scale of Rs.10000-15200 would be given to the Deputy Superintendent of Police in CBI on completion of six years of regular service instead of four years. The pay scale and promotional avenues in the case of the applicants have been stated to be:

Sl. No.	Existing Pay-Scale	Pre-revised Pay-Scale	Classification	Eligibility Period
1.	Rs.8000-13500	Rs.2200-4000	Junior Time Scale	Entry Level
2.	Rs.10000-15200	Rs.3000-4500	Senior Time Scale	4/5th year
3.	Rs.12000-16500	Rs.3700-5000	Junior Administrative Grade (JAG)	8/9th year
4.	Rs.14300-18300	Rs.4500-5700	Selection Grade in JAG	12/13th year
5.	Rs.16400-20000	Rs.5100-6150	Super Time Scale (in police forces /IFS)	Not Fixed (those in Selection Gr. Eligible)
6.	Rs.18400-22400	Rs.5900-6700	Senior Administrative Grade	17/18th year

ls Ag e

23

[5]

7. Rs.22400-24500 Rs.7300-7600 Higher Admi- 25th year
nistrative
Grade

4. By virtue of the present application, the applicants seek to strike down the new recruitment rules of 7.9.2000 to be discriminatory and arbitrary, and to direct the respondents to frame new recruitment rules giving parity of treatment to the applicants in the matter of conditions of service like time-bound scales of pay, and further directing the respondents to give Senior Time Scale after four years as in case of all other Group 'A' services/posts under the Union of India. The applicants also seek to disallow the prescribing of one set of rules for deputationists and another set of rules to the cadre officers for the same posts in the CBI. Prayer has also been made to direct the respondents to not only restore the quota for directly recruited DSPs of CBI but also enhance the same to 50% and it could be increased to 100% at the level of Superintendent of Police and that they should be considered for senior posts in the CBI cadre officers.

5. The above said reliefs are being claimed primarily on the ground that the applicants are being discriminated vis-a-vis promotions between cadre posts and deputationists in the eligibility conditions of service for higher posts. It is stated that other Group 'A' service officers are coming on deputation to higher posts with lesser number of years of service as compared to the applicants, therefore, the applicants are being discriminated. Similarly it is asserted

20

[6]

that there is a discrimination between one cadre officers with regard to quota in different ranks to the post of Superintendent of Police, Senior Superintendent of Police and Deputy Inspector General of Police. Already deputationists are given higher post with large number of percentage reserved for them. Discrimination is further complained between the Group 'A' cadre officers of CBI and deputationists pertaining to the quota fixed, and it is also their claim that they are not being considered for higher posts like Director, CBI including the Additional Director, CBI.

6. The application has been contested. The respondents plead that in the Central Bureau of Investigation, recruitment for the post of DSP is made 50% by deputation of officers from State Police/Forces/Central Police Organisations; 40% are by promotion of departmental Inspectors and; 10% by direct recruitment through Union Public Service Commission. Since the post of Deputy Superintendent of Police has been classified as Group 'A', all the entrants either direct recruitees or promotees are given same facilities. It is asserted that CBI is not an organised Group 'A' service but a post. Thus, appointment to the post, Deputy Superintendent of Police and subsequent promotions are governed by the relevant recruitment rules. It is not denied that on qualifying the Civil Services Examination, the Union Public Service Commission recommends them in accordance with their merit, set procedure and rules. The pay and allowances are determined in accordance

ls Ag e

with the rules and instructions that are issued from time to time. It is denied that there is any discrimination, because according to the respondents, as per the recruitment rules, those who hold analogous post on regular basis can come on deputation as Superintendent of Police in the Central Bureau of Investigation. Analogous posts means such officer should be in the scale of Rs.12000-16500. However, officers of the services/departments in the scale of Rs.10000-15200 with six years of regular service are eligible for induction as Superintendent of Police in CBI. They contend that officers have to be inducted at the level should be of proven merit with vast experience. The need for fresh inputs and wider experience at senior levels is based on the cardinal principle that lateral induction from diverse sources enhance the working prospective and capabilities of the organisation.

7. We have heard the parties counsel and have seen the relevant records.

8. The settled principles in law is that in service jurisprudence when there are two different sources of recruitment to the post and once they are inducted in the cadre, there should be no discrimination for further promotion. Reference in this connection can be made to the decision of the Supreme Court in the case of Roshan Lal Tandon v. Union of India & Others, 1967 SLR (Vol.1) Page 832. The Supreme Court besides referring to the above said principle further held that though origin of

ls Ag

relationship with Government servant is a contract but it is not like an ordinary contract of service between Master and Servant, but it ^{is} a legal relationship which is entirely different from contractual relationship. It further held that legal position of a Government servant is more of a Status than of a contract. The findings of the Supreme Court in this regard:

"..... There is an offer and acceptance in every case. But once appointed to his post or office the Government servant acquires a status and his rights and obligations are no longer determined by consent of both parties, but by statute or statutory rules which may be framed and altered unilaterally by the Government. In other words, the legal position of a Government servant is more one of status than of contract. The hall-mark of status is the attachment to a legal relationship of rights and duties imposed by the public law and not by mere agreement of the parties. The emoluments of the Government servant and his terms of service are governed by statute or statutory rules which may be unilaterally altered by the Government without the consent of the employee. It is true that Art. 311 imposes constitutional restrictions upon the power of removal granted to the President and the Governor under Art. 310. But it is obvious that the relationship between the Government and its servant is not like an ordinary contract of service between a master and servant. The legal relationship is something entirely different, something in the nature of status. It is much more than a purely contractual relationship voluntarily entered into between the parties. The duties of status are fixed by the law and in the enforcement of these duties society has an interest."

The Supreme Court further held that Government is competent to alter the emoluments and terms of service unilaterally without the consent of Government servant.

LS Ag — e

9. In a leading case of the Apex Court, which is a Constitutional Bench decision, in S.G. Jaisinghani v. Union of India and Others, AIR 1967 SC 1427, the Supreme Court in unambiguous terms concluded that in a system governed by rule of law, discretion, when conferred upon executive authorities, must be confined within clearly defined limits and there should be absence of arbitrary power. It was held that rule of law is the sworn enemy of caprice. Discretion has to be guided by law and not by humour. It cannot be arbitrary, vague and fanciful. Findings of the Supreme Court which are enumerated reads:

"14. In this context it is important to emphasize that the absence of arbitrary power is the first essential of the rule of law upon which our whole constitutional system is based. In a system governed by rule of law, discretion, when conferred upon executive authorities, must be confined within clearly defined limits. The rule of law from this point of view means that decisions should be made by the application of known principles and rules and, in general, such decisions should be predictable and the citizen should know where he is. If a decision is taken without any principle or without any rule it is unpredictable and such a decision is the antithesis of a decision taken in accordance with the rule of law."

10. Similarly in the case of Kuldeep Kumar Gupta & Ors. v. H.P.S.E.B. & Ors, JT 2001(1) SC 47, the Supreme Court referred to the earlier well known decision in the case of Triloki Nath Khosa, [1974(1) SCC 19] and held that in matters of promotion with academic or technical qualification, it is a matter for the legislative to determine, but if the

ls Ag

classification is unreasonable and violates Articles 14 and 16, the Court would interfere. The Supreme Court findings are:

"It was held by this Court in Triloki Nath that classification in matters of promotion with academic or technical qualification as basis, is a matter for legislative determination and such a classification is permissible unless it is found to be unjust on the face of it and the onus lies upon the party attacking the classification to show by pleadings the necessary material before the Court that the said classification is unreasonable and violative of Article 16. It is in that context the Court further observed that discrimination is the essence of classification and does violence to the constitutional guarantee of equality only if it rests on an unreasonable basis and that being the position, it would be for the party assailing such classification to establish that the classification is unreasonable and bears no rational nexus with its purported object. In the absence of furnishing necessary particulars, it must be construed that the plea of unlawful discrimination had no basis. In Triloki Nath, a word of caution has been indicated that the right to classify is hedged in with salient restraints. Classification must be truly founded on substantial differences which distinguish person grouped together from those left out of the group and such differential attributes must bear a just and rational relation to the object sought to be achieved and judicial scrutiny extend only to the consideration whether the classification rests on a reasonable basis and whether it bears nexus with the object in view. It cannot extend to embarking upon a nice or mathematical evaluation on the basis of classification. In Triloki Nath, the court held that Roshan Lal's case is no authority for the proposition that there cannot be a classification for the purpose of promotion on a basis other than the one that they were drawn from different sources."

11. More recently, in the case of P.U. Joshi and Others v. Accountant General, Ahmedabad and Others, (2003) 2 SCC 632, the Supreme Court held that

CS Ag

merely because there is a common seniority list will not entitle them to seek parity. It was held further that determination of conditions of service or alteration fall within the domain of the executive with little scope for interference. The findings of the Supreme Court are:

"10. We have carefully considered the submissions made on behalf of both parties. Questions relating to the constitution, pattern, nomenclature of posts, cadres, categories, their creation/abolition, prescription of qualifications and other conditions of service including avenues of promotions and criteria to be fulfilled for such promotions pertain to the field of policy is within the exclusive discretion and jurisdiction of the State, subject, of course, to the limitations or restrictions envisaged in the Constitution of India and it is not for the statutory tribunals, at any rate, to direct the Government to have a particular method of recruitment or eligibility criteria or avenues of promotion or impose itself by substituting its views for that of the State. Similarly, it is well open and within the competency of the State to change the rules relating to a service and alter or amend and vary by addition/subtraction the qualifications, eligibility criteria and other conditions of service including avenues of promotion, from time to time, as the administrative exigencies may need or necessitate."

12. Before proceeding further, at this stage, it would be proper to refer to the position in law with respect to the promotions. In the case of Raghunath Prasad Singh v. Secretary, Home (Police) Department, Government of Bihar and Others, AIR 1988 SC 1033, the Supreme Court stated that reasonable promotional opportunities should be available in every wing of public service. This would generate efficiency. The findings are:

ls Ag

"Before we part with the appeal, we would like to take notice of another aspect. In course of hearing of the appeal, to a query made by us, learned counsel for the appellant indicated the reason as to why the appellant was anxious to switch over to the general cadre. He relied upon two or three communications which are a part of the record where it has been indicated that there is no promotional opportunity available in the wireless organisation. Reasonable promotional opportunities should be available in every wing of public service. That generates efficiency in service and fosters the appropriate attitude to grow for achieving excellence in service. In the absence of promotional prospects, the service is bound to degenerate and stagnation kills the desire to serve properly. We would, therefore, direct the State of Bihar to provide at least two promotional opportunities to the officers of the State Police in the wireless organisation within six months from today by appropriate amendments of Rules. In case the State of Bihar fails to comply, with this direction, it should, within two months thereafter, give a fresh opportunity to personnel in the Police wireless organisation to exercise option to revert to the general cadre and that benefit should be extended to every one in the wireless organisation."

13. In the subsequent decision, in the case of Union of India and Another v. S.S. Ranade, (1995) 4 SCC 462, the Supreme Court explained the meaning of 'promotion', and further held that it does not necessarily imply promotion to a higher post. There can be promotion to a higher pay scale in the same post.

14. Similarly, a view expressed in the decision of the Supreme Court in the case of State of Rajasthan v. Fateh Chand Soni, 1996 (1) SLR 1,

ls Ag

wherein while explaining the expression 'promote', it was held that 'promote' means 'to advance to a higher position, grade, or honour'.

15. From the aforesaid, the conclusions conveniently being drawn are that (i) promotion can be not necessarily to a higher post, it can be to a higher pay scale. (ii) It is within the domain of the executive or legislative to frame recruitment rules. (iii) Normal promotional avenues should be provided though it is for the executive to see as to what promotional avenues have to be provided keeping in view the nature of the work and all other factors. (iv) The scope for interference in a judicial review would be limited. The Tribunal or the Court can interfere only if the decisions are arbitrary, capricious, mala fide or totally unconscionable.

16. With this backdrop, we revert back to the facts of the present case before us.

17. On behalf of the applicants, it was highlighted that for the post of Additional Director, Special Director and Director of CBI, the Recruitment Rules do not provide for the avenues of promotion to the applicants. At this stage, it is relevant to mention that the applicants who joined as Deputy Superintendent of Police do ~~not~~ have avenues of promotion as Additional Superintendent of Police, Superintendent of Police, Senior Superintendent of Police, Deputy Inspector General of Police and Joint Director in the CBI. We have already pointed above

ls Aeg

that though promotional avenues should be provided but by and large it is for the executive to see the nature of the service in totality of the facts and circumstances and consider what further promotional avenues can be provided in this regard.

18. Though at first blush, we were swayed by the plea that further promotional avenues are being deprived, however on closer scrutiny, we find that this contention necessarily has to be stated to be rejected. The reason is obvious. It has been pointed that the said post of Director of CBI and Additional Director of CBI are selection posts. They are sensitive posts.

19. In that backdrop, necessarily wider scope has to be kept in mind read with importance of the post. In view of the limited number of posts available and nature of the duties the respondents have to fill up the same and by picking up the best available candidate. We have already referred to above that the applicants do have five promotional avenues. Thereafter, it is for the department to consider the best available candidate to the limited post like Director, CBI which is only one. It is not that applicants do not have avenues of promotion. In this backdrop, it cannot be stated that the applicants are being discriminated. The said plea, therefore, necessarily has to be rejected.

ls Ag

20. In this regard, our attention has been drawn towards the decision of the Supreme Court in the case of Dr. Ms. O.Z.Hussain v. Union of India 1990 (Supp) SCC 688. In the cited case, it was held that there is an absence of provision for promotion channel for non-medical Group 'A' Scientists in the establishment of Director General of Health Services under the Ministry of Health and Family Welfare, while similarly placed officers in another Ministry would have the benefit of the promotion. The Supreme Court held:

"This Court, has on more than one occasion, pointed out that provision for promotion increases efficiency of the public service while stagnation reduces efficiency and makes the service ineffective. Promotion is thus a normal incidence of service. There too is no justification why while similarly placed officers in other ministries would have the benefit of promotion, the non-medical 'A' Group scientists in the establishment of Director General of Health Services would be deprived of such advantage. In a welfare State, it is necessary that there should be an efficient public service and, therefore, it should have been the obligation of the Ministry of Health to attend to the representations of the Council and its members and provide promotional avenue for this category of officers. It is, therefore, necessary that on the model of rules framed by the Ministry of Science and Technology with such alterations as may be necessary, appropriate rules should be framed within four months from now providing promotional avenue for the 'A' category scientists in the non-medical wing of the Directorate."

As has been noticed above, this is not the position that the applicants have been deprived of the said promotion.

18 Ag

21. Another decision rendered by the Delhi High Court in the case of Ishwar Singh v. Union of India, CW No.1391/96, decided on 17.10.1996 was referred to. In that case, the Delhi High Court held that there was no justification why the cadre officers of the Central Industrial Security Force should be deprived of promotional avenues when benefit of promotion is available to the cadre officers similarly placed in CRPF and BSF. This is not the position herein, and therefore, we must hold that the decision of the High Court of Delhi in Ishwar Singh (supra) will not be applicable in the facts of the present case.

22. It has further been pointed that earlier when post of DSP in CBI was Group 'B' post, the recruitment rules were framed at par with other Group 'B' services/posts. They were getting the Senior Time Scale to the rank of Superintendent of Police in eight years at par with other Group 'B' services/posts. After it has become Group 'A' post, when the post of DSP is in Group 'B' the incumbents would become Superintendent of Police in 12 years. The eligibility period of promotion to higher rank has therefore been reduced.

23. Subject to the other discussions, which shall be discussed hereinafter, we make it clear that once it is a policy matter, the State can provide as to how many years the said persons should put in service before they can be so considered for

ls Ag

promotion. This of course has to be keeping in view the fact that similarly placed other persons should not score a march over the applicants.

24. It was further asserted that there was a discrimination as regards to quota in different ranks. For example, there is 40% quota for cadre officers and 60% quota for deputationists for the post of Superintendent of Police and similarly for the post of Deputy Inspector General, 25% quota is for the cadre officers and 75% for deputationists. We only reiterate that this is a policy matter. It cannot be said that a particular category only should get promotional quota and persons cannot be taken from deputation. There is no selective discrimination in this regard because when people are taken from deputation, it helps in widening the horizon for better investigation. They bring forward their rich experience and enhance the working prospects and capability of the organisation. To that extent we reject the said contention.

25. However, great stress has been laid on behalf of the applicants that the post of Deputy Superintendent of Police in the Central Bureau of Investigation is now a Group 'A' post. They contend that as per the Rules, different eligibility conditions have been prescribed for cadre officers on deputation for the same posts in the CBI. For example, it is stated that while Deputy Superintendent of Police Group 'A' takes 12 years to be promoted for the post of Superintendent of Police, in case of IPS

ls Ag

Officers it is 7 years and in case of other Group 'A' services on deputation it is 9 years. According to the learned counsel this is highly discriminatory. The applicants had made available a Chart in this regard during the course of submission which reads:

IPS officers on deputation		Other Gr. 'A' services officers on deputation	CBI DSP Gr 'A'
Entry Gr.A level Rs.8000-13500		Gr.A Rs.8000-13500	Gr. A Rs.8000-13500
ASP	N.A.	N.A.	6
SP	7	9	12
SSP	N.A.	N.A.	16
DIG	14	17	20
JD	18	Ineligible	25
AD	26	Ineligible	Ineligible
SD	26	Ineligible	Ineligible
DCBI	30	Ineligible	Ineligible

26. During the course of the submission, it has been explained that the promotional avenues of DSP have not been changed despite it being declared as Group 'A' posts. New recruitment rules have been put into force. The DSP in CBI has to put in 6 years of regular service for promotion to the next higher rank as Additional Superintendent of Police and 12 years regular service to the rank of Superintendent of Police and 16 years regular service to the rank of Senior Superintendent of Police.

LS Ag e

27. In sharp contrast to this, officers of Indian Police Service/All India Service/Indian Audit & Accounts Service/Indian Revenue Service (Income Tax Service)/Indian Customs & Central Excise Service/Central Police Organisations holding analogous posts on regular basis become eligible to come to SP in CBI on deputation. The analogous posts in these services fall in the Senior Time Scale which officers of these services get in 4 years of service.

28. It was explained further that officers of the years 1995 and 1996 batch of Group 'A' services like Indian Railway Service, IC&CES, IA&AS, etc. have already got the Senior Time Scale and IPS officers of 1995/1996 batch have also got the Senior Time Scale, and therefore, they have become eligible to come as Superintendent of Police in 4 years whereas it would take 12 years for a direct recruit.

29. On appraisal of the recruitment rules, which have been placed on record, in the first instance it does not appear to be so. But it was demonstrated that officers of other services score a march over the applicants when they come on deputation.

30. A rule can be discriminatory. Though on the face of it, it may look otherwise but in its implementation and effect, it may be unconscionable. Once the effect is such, it would be hit by the principles of arbitrariness.

ls Ag

31. It must be mentioned that it is not the case of the respondents that applicants are in any way inferior to other Group 'A' Officers of the Central Services.

32. There are no such reasons as to why deputationists were given special treatment. In the preceding paragraphs, we have already noted that a particular percentage can be reserved for deputationists as per the requirement and the exigencies, but special treatment in this regard shall not be given. The net result explained was that Deputy Superintendent of Police which is now a Group 'A' post, have to work under those who come on deputation and may be joining the other services in later years. Applicants are also holding group 'A' posts. They are recruited to the service by the same examination conducted by Union Public Service Commission. Allotment is made to the different posts/service as per merit and option of the candidates. In such a situation, there is no scope for different treatment being given to him. Even if the respondents deem it proper that the persons holding the posts of Indian Administrative Service & Indian Police Service may be better placed, it should not be in case of other Central group 'A' posts/service (i.e. other than Indian Administrative Service & Indian Police Service).

33. However, it appears that while the earlier DSP was a Group 'B' post while it was declared to be Group 'A' post, necessary corresponding changes have not been made with respect to the posts of

Utg

2/42

[21]

Superintendent of Police and Deputy Inspector General of Police. This fact has been highlighted in paragraph 4.10 of the Original Application. This exercise, therefore, necessarily has to be done by the respondents because the applicants rightly contend that otherwise the Rules suffer from the vice of arbitrariness.

34. No other arguments have been raised before us.

35. For these reasons while on all other counts, the petition must fail but the following directions are issued:

- a) The respondents should effect the exercise in terms that there is a parity of years of service ~~for~~ ~~prescribed~~ prescribed, i.e., minimum years from the DSP Group 'A' CBI and other Group 'A' service officers indicated in Para 32 above who are coming on deputation. Thereafter, necessary amendments can be effected as deemed proper in the corresponding columns in the recruitment rules.
- b) This exercise should be done within three months.

G Ag e

c) Till then, if any person has to be taken on deputation to the post of SP, DIGP or any other similarly placed Group 'A' post in the CBI (other than to which applicants are not eligible) it should be ensured to maintain parity that they render at least the same number of years as indicated in the chart in Para 25 pertaining to the applicants (DSP/CBI).

36. The OA is accordingly disposed of. No costs.

S.K. Naik
(S.K. Naik)
Member (A)

/NSN/

V.S. Aggarwal
(V.S. Aggarwal)
Chairman