

**CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH
NEW DELHI**

O.A. No. 1043 of 1998 decided on 27. 8. 1998 .

Name of Applicant - Nandlal Singh & ors.

By Advocate : Shri A.K. Rehra

(9)

Versus

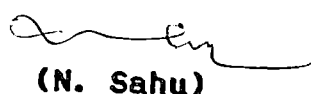
Name of respondent/s Union of India

By Advocate : Shri Vijay Pandita

Corum:

Hon'ble Mr. N. Sahu, Member (Admnv)

1. To be referred to the reporter - Yes/No
2. Whether to be circulated to the other Benches of the Tribunal. - Yes/No


(N. Sahu)
Member (Admnv)

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

G.A.No.1043/98

M.A.No.1078/98

New Delhi, this the 27th day of August, 1998

HON'BLE SHRI N.SAHU, MEMBER(A)
HON'BLE DR.A.VEDAVALLI, MEMBER(J)

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1. Shri Nandlal Singh,
S/o Shri Gynachand,
R/o B-162/6, Gali No.8,
Bhajanpura,
Delhi.
2. Shri Dharam Pal,
S/o Shri Chimoli,
R/o F-17/94, Sector-8,
Sagarpur,
New Delhi.
3. Shri Babu Lal
S/o Shri Kishori Lal,
R/o RZ-42, Shankar Park,
Sagarpur,
New Delhi.
4. Shri Sita Ram,
S/o Late Shri Khazan Singh,
R/o D-12/145, Sector-8,
Rohini, Delhi.
5. Shri Bishan Chand,
S/o Late Shri Hira Lal,
R/o B-254, DA Flats,
Timarpur, Delhi

....Applicants

(By Advocate: Shri A.K. Behera)

Versus

1. Union of India through the Secretary,
Ministry of Home Affairs,
North Block,
New Delhi.
2. The Lt. Governor,
Govt. of N.C.T. of Delhi,
Raj Niwas,
Delhi.
3. The Chief Secretary,
Govt. of N.C.T. of Delhi,
5, Sham Nath Marg,
Delhi.
4. The Secretary,
Union Public Service Commission,
Dholpur House,
Shahjahan Road,
New Delhi-11

....Respondents

(By Advocate: Shri Vijay Pandita)

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O R D E R (ORAL)

BY HON'BLE SHRI N. SAHU, MEMBER (A)

Heard.

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2. An M.A. No.1078/98 has been filed stating that there is a common cause of action and relief prayed for are common. They have common interests. The prayer is that they should be allowed to join together under Rule 4(5)(b) of the CAT (Procedure) Rules, 1987. Shri Vijay Pandita, ld. counsel for respondents states that there is no affidavit in verification and states that this should have been done. Sh. A. K. Behera, ld. counsel for applicant states that the application itself is duly verified and all the applicants have signed in the Miscellaneous Application No.1078/98. We are satisfied that the essential requirement of Rule 4(5)(b) ibid has been complied with and all the applicants have signed the M.A. and we are satisfied that this is a fit case for allowing the application for joining together. We accordingly order so.

3. The applicants in this case are aggrieved by the eligibility list of Grade I (DASS/Stenographers) Officers for the year 1990. There is an order dated 19.3.98 on the subject of convening of meeting of the Selection Committee for appointment to Grade-II of Civil Services by promoting/filling of vacancies for the year 1995. The case of the applicants is that in the year 1994, ad-hoc promotions were issued in their favour for promotion against the reservation points. They were aggrieved that the eligibility list did not contain their names although it pertains to the year 1995.

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4. The matter has been cut short by the ld. counsel for respondents Shri Pandita who stated that by a mistake, promotion to Grade II of Delhi Andaman & Nicobar Islands Civil Service (DANICS) was mentioned for the years 1990-95. It should have 1990-1993. To this effect, Shri Pandita has brought to our notice the letter of Shri P.K. Jalali dated 14.5.98 wherein at para 2 it has been stated that there was a typographical error in regard to the "years" in which the vacancies in question had arisen. We have seen the letters dated 14.5.98 and 20.2.98. In the later letter, after the year 1990, mention of the year 1993 has occurred. The subsequent letter corrects this impression by saying that after 1990, the vacancies for the years 1991, 1992 and 1993 are to be considered. Therefore, the ld. counsel for respondents states that the years of consideration are confined from 1990 to 1993 only. Even so the extended zone of consideration upto five times the number of candidates sought to be selected has been taken into account and the respondents found that the seniority of the applicants fall at sr.no.1002, 1003, 1004, 1006 and 1008 respectively. The last S.C. category officer included in the eligibility list is Shri Amar Singh having seniority no.795 in the Grade-I of DASS with date of appointment in the grade as 7.11.1983.

5. We therefore find that the applicants' case cannot be now covered in the proposed DPC that is going to be convened by the respondents by virtue of their letter dated 19.3.98. Accordingly we do not find any merit in the major part of the relief claimed by the applicants.

Amrinder

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6. The question raised by Shri Behera is that the applicants were promoted on ad-hoc basis in the year 1994. They are part of the promotee quota from 1994 onwards. We are in the year 1998. Every year the direct recruitment quota has been filled up but the promotee quota has been lagging behind. The Department of Personnel & Training has categorically laid down that no officer can continue as ad-hoc for more than a specific period of time. Any extension of ad-hoc appointment shall not be normally allowed except with the prior approval of the competent authority and for reasons to be recorded in writing. The Hon'ble Supreme Court in the case of Union of India vs. N.R. Banerjee -1997 (9) SCC 287 has laid down that "it is mandatory law for the respondents to ascertain the position of the vacancies for each year and to convene a DPC for the vacancies of these years. It is true that the Govt. is under no obligation to fill up a vacancy and empanelment of a candidate does not create any right in his favour, yet the administrative instructions issued by the Government of India clearly indicate the need for taking action for preparation of panel well in advance to fill up the clear vacancies or anticipated vacancies. The preparation and finalisation of yearly panel, unless duly certified by the appointing authority that no vacancy would arise or no suitable candidate was available, is a mandatory requirement. If the annual panel can not be prepared for any justifiable reason, year-wise panel of all the eligible candidates within the zone of consideration for filling up of the vacancies each year should be prepared and appointments made in accordance therewith." The Hon'ble Supreme Court further held that "claims of eligible candidates have to be considered for

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promotion objectively and dispassionately, with a sense of achieving manifold purpose: (1) affording an opportunity to the incumbent to improve excellence, honesty, integrity, devotion to public duty: (2) inculcating discipline in service: (3) afford opportunity to every eligible officer within the zone of consideration for promotion to a higher post or office: and (4) ensuring that the Committee regularly meets and considers their claim objectively, impartially with a high sense of responsibility in accordance with the procedure and finalisation of the list in advance so as to fill up vacancies arising in the year from the approved panel without any undue delay. They are salutary principles and form the purpose and the policy behind the rules and the Government should follow them."

7. Now that the Department has convened the DPC for the years upto 1993, we would only direct the respondents to ascertain the vacancies of the subsequent years and in accordance with the law laid down as above, shall convene a DPC for the vacancies arising in the subsequent years, as early as possible.

8. Shri Pandita states that the applicants have no right to promotion but only they have a right of consideration. Even so, we hold that because the vacancies are stated to be existing from 1994 to 1998, the Department is duty bound to ascertain the vacancies and convene DPC within a reasonable time as laid down by the Hon'ble Supreme Court in Banerjee's case, referred to above.

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9. With these observations, we dispose of this O.A.

No costs.

A. Vedavalli

(DR.A. VEDAVALLI)
MEMBER(J)

N. Sahu

(N. SAHU)
MEMBER(A)

/mishra/