Central Administrative Tribunal
Principal Bench

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New Delhi, dated this the 1st November, 1999

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

O.A. No. 1693 of 1998
M.A. No. 2310 of 1998

Shri V.K. Shridhar,
S/o Shri Gian Prakash,
Director,
Room No. 306, Jeewan Tara Building,
DGS&D, Parliament Street,
New Delhi-110001. ... Applicant

(Applicant in person)

Versus

1. Directorate General of Suplies & Disposals,
   Jeewan Tara Building,
   Parliament Street,
   New Delhi-110001.

2. The Secretary,
   Dept. of Supply,
   Nirman Bhawan,
   New Delhi-110001.

3. The Secretary,
   U.P.S.C.,
   Shahjahan Road,
   New Delhi-110011. ... Respondents

(By Advocate: Shri A.K. Bhardwaj)

O.A. No. 1276 of 1999

Shri A.K. Satwah,
S/o Shri R.L. Satwah,
Director, Quality Assurance,
D.G.S & D,
Jeewan Tara Building,
5, Parliament Street,
New Delhi-110001. ... Applicant

(Applicant in person)

Versus

1. Directorate General of
   Supplies & Disposals,
   Jeewan Tara Building,
   Parliament Street, New Delhi-110001.

2. Secretary,
   Dept. of Supply,
   Nirman Bhawan,
   New Delhi.

3. Secretary,
U.P.S.C., Shahjahan Road,
New Delhi-110011. ... Respondents

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(By Advocate: Shri A.K. Bhardwaj)

ORDER (Oral)

BY HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

As these two O.As involve common questions of law and fact they are being disposed of by this common order.

O.A. No. 1693/98

2. In this O.A., which had initially been filed in CAT, Bombay Bench and numbered O.A. No. 155/86 and upon transfer to CAT, Principal Bench was renumbered as O.A. No. 1693/98, we have heard applicant who argued his case in person and Shri A.K. Bhardwaj for respondents.

3. Applicant states that Reliefs A & B in the Paragraph seeks various reliefs in the O.A. have been granted by respondents, and in regard to reliefs C,D & E of that paragraph he states he is not pressing them at present. He, however, states that he is pressing Relief F i.e. any other relief the Tribunal considers fit in the circumstances of the case.

4. In this connection he has invited our attention to M.A. No. 2310/98 arising out of the present O.A. in which he has challenged the order dated 13.11.97 promoting him as Director with immediate effect.

5. He has also invited our attention to the Tribunal's order dated 14.12.92 in which it has been stated that if there are vacancies in Grade I, he and all others who are eligible for being considered for promotion shall be so considered for promotion on merits and in accordance with law, the candidate/candidates found fit for promotion shall be so promoted.

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6. He has argued that while Respondents were required to prepare yearwise panels on the basis of the calculations of all the vacancies which became available each year from 1984 till 1987 Respondents did not do so and by their order dated 13.11.97 they have clubbed all the vacancies together and thereafter made promotions which is violative of rules and instructions.

7. On the other hand Respondents' counsel Shri Bhardwaj has invited our attention to Respondents' reply to M.A. No. 2310/98 in which it has been contended that there were no vacancies from 1984 to the recruitment year 1994-95 and after 1995 recruitment could not be held because of Court cases.

8. The challenge to Respondents' order dated 13.11.97 should have appropriately been made through an O.A. if the applicant was so advised, and not through M.A. No. 2310/98 as the aforesaid order dated 13.11.97 constitute a separate cause of action.

9. Under the circumstances, as the reliefs prayed for in the O.A. have either been granted, or are not being pressed as averred by applicant himself during hearing, we dispose of O.A. No. 1693/98 as well as M.A. No. 2310/98 by giving liberty to applicant that if he has any grievance in respect of Respondents' order dated 13.11.97 it will be open to him to challenge the same through appropriate original proceedings in accordance with law if so advised. In the event applicant files a fresh O.A., the period of time which has elapsed between the filing of M.A. No. 2310/98 and the filing of the O.A. shall be excluded for the purpose of limitation, as it shall be deemd that applicant was pursuing his remedies and the O.A. will be taken up on priority basis for hearing.

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11. In this connection we note that the CAT, Bombay Bench in its order dated 29.9.88, had held that whatever orders were passed in the O.A. would be subject to the outcome of the three L.P.As pending before the Delhi High Court. We reiterate the above orders and hold that the orders being passed in the present O.A. will be subject to the outcome of the three L.P.As pending in the Delhi High Court.

12. O.A. No. 1693/98 along with M.A. No. 2310/98 stand disposed of accordingly. No costs.

O.A. No. 1276 of 1999

13. In this O.A. we have heard applicant Shri Satwah who has argued his case in person, and respondents' counsel Shri A.K. Bhardwaj.

14. The case of Shri Satwah is on all fours with that of applicant Shri V.K. Shridhar in O.A. No. 1693/98 disposed of above with the exception that Shri Satwah has not filed any M.A. separately impugning respondents order dated 18.9.96, with which he is aggrieved.

15. Shri Satwah has also contended that although he remains senior to applicant Shri Shridhar in O.A. No. 1693/98, consequent to their promotion, applicant Shri Shridhar has been drawing higher salary than himself, which is illegal and arbitrary.

16. The foregoing orders passed in O.A. No. 1693/98 and M.A. No. 2310/98 in regard to applicant Shri Shridhar are hereby made applicable in O.A. No. 1276/98 filed by applicant Shri Satwah also mutatis mutandis, by making it clear that in the event applicant Shri Satwah has any specific [illegible]

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grievance in regard to impugned order dated 18.9.96 or in regard to his salary, it will be open to him to challenge the same through appropriate original proceedings in accordance with law, if so advised.

17. This O.A. also stands disposed of accordingly. No costs.

18. Let a copy of this order be placed in each O.A. case record.

Lakshmi Swaminathan

(Mrs. Lakshmi Swaminathan)
Member (J)

S.R. Adige

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

/GK/