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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

OA No. 1649/95

New Delhi: this the 20 day of July, 2000.

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

HON'BLE MR. KULDIP SINGH, MEMBER (J)

Shri P. Singhal,
Directorate General of Supplies & Disposals,
5, Parliament Street, Jeevan Tara Building,
New Delhi-1

2. Shri H. R. Sharma,
Directorate General of Supplies & Disposals,
5, Parliament Street, Jeevan Tara Building,
New Delhi -1

.....Applicants.

(By Advocate: Shri K. C. Sharma)

Versus

1. Union of India,
through the Secretary,
Department of Supply,
Ministry of Commerce,
Nirman Bhavan,
New Delhi-1

2. Director General,
Supplies and Disposal,
5, Sansad Marg,
New Delhi.

3. Shri R. Karupiah,
Dy. Director Quality Assurance,
Bombay Circle,
Ayakar Bhavan Annex,
New Marine Lines,
Bombay.

.....Respondents.

(By Advocate: Shri N. S. Mehta)

ORDER

Mr. S. R. Adige, VC(A):

In this OA filed on 24.8.95, applicants had sought the following reliefs

- i) to quash impugned order dated 8.5.91 (Annexure-A/1).
- ii) to direct a review DPC to be convened to consider applicants' case and that if they are found fit, they be promoted as Deputy Director of Inspector w.e.f. 8.5.92.
- iii) to direct the grant to applicants of all reliefs and benefits consequential to the grant of reliefs prayed for in (ii) above.
- iv) to grant costs of this OA to applicants and

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v) to pass such orders as may be deemed fit in the interest of justice.

2. On 20.9.95, MA No.2320/95 and No.2321/95 were pressed by applicants.

3. In MA No.2320/95 a prayer was made for amending the prayer portion of the OA which was allowed by order dated 20.9.95 and applicants were permitted to carry out the amendment that day itself. By that amendment a new relief bearing No.(vi) was added which reads thus

(vi) direct respondents to convene a DPC to consider promotions to the post of DDI in the Office of Respondent No.2 for the vacancies existent in 1992 in accordance with the rules in existence at the time and to therefore consider the applicants' case therefore as well.

4. In MA No.2321/95 which was filed for condonation of delay in filing the OA in respect of reliefs contained in paras 8(i) and (ii) of the OA, it was noted in order dated 20.9.95 that the impugned order was dated 8.5.91 while the OA was filed in 1995. The prayer for condonation of delay was rejected and respondents were called upon to file reply only in respect of the reliefs contained in paras 8(ii), (iv), (v) and (vi) of the OA.

5. Respondents filed their reply on 27.12.95, and applicants their rejoinder on 29.2.96.

6. Thereupon applicants filed an addl.affidavit on 16.4.99 contending that after filing of the OA certain addl.facts had come to light in regard to the availability of long term vacancies in 1991-92, 1992-93, 1993-94 and 1994-95, against which applicants could have been regularly promoted, but respondents with

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malafide intention did not promote them against those vacancies, and instead promoted them only in 1997 and that too on adhoc basis.

7. Respondents have filed reply on 4.1.2000 to this addl. affidavit and have pointed out that applicants have by this addl. affidavit sought to enlarge the scope of the OA by bringing in the fresh issues of vacancies, yearwise, determination of vacancies and delay in holding DPCs which did not flow from the main relief sought for in the OA which was on the question of the applicability of reservation orders in promotion.

8. Applicants have filed their rejoinder to the aforesaid reply in which the respondents' averments have been denied, and applicants' own contention reiterated.

9. There is merit in respondents' submission that by affidavit dated 16.4.99 the scope of the OA has been sought to be much enlarged by bringing in fresh issue of availability of yearwise vacancies, correct calculation of the same and delay in holding DPCs which did not flow from the main relief prayed for in the OA which had questioned the applicability of reservation order in promotion.

10. These fresh issues raise important questions of law and fact and need to be covered by detailed and self contained pleadings. They cannot be adequately covered merely by addition/amendments to existing pleadings.

11. Under the circumstance we uphold respondents' submission as contained in para 9 above, and dispose

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of the OA after granting applicants liberty to file a fresh OA in respect of the issues raised by them in their addl. affidavit dated 16.4.99. *No costs.*

Kuldip Singh

(KULDIP SINGH)
MEMBER(J)

S.R. Adige

(S.R. ADIGE)
VICE CHAIRMAN(A)

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