

(19)

Central Administrative Tribunal
Principal Bench

O.A. 1851/95

New Delhi this the 1st day of March, 2000

Hon'ble Mr. Justice V. Rajagopala Reddy, Vice Chairman(J).
Hon'ble Mrs. Shanta Shastri, Member(A).

1. Deen Dayal,
S/o Shri Prashadi Lal,
R/o D-II/148, Kaka Nagar,
New Delhi.
 2. R.K. Tandon,
S/o Shri Bhagnal Tandon,
R/o A-98, Pandara Road,
New Delhi.
 3. L. Prasad,
S/o late Shri D.M. Prasad,
R/o II/5, Pandara Road,
New Delhi.
 4. A.K. Saxena,
S/o Shri P.S. Saxena,
R/o G-5, B-Block,
Peshwa Road, Gole Market,
New Delhi.
 5. M.L. Gupta,
S/o Shri K.P. Gupta,
R/o D-12, Andrews Ganj Extension,
Josip Broz Tito Marg,
New Delhi.
 6. Mohan Chand Joshi,
S/o Shri A.D. Joshi,
R/o Sector 12/1251, R.K. Puram,
New Delhi.
- ... Applicants

None present.

1. Union of India through
Secretary to Govt. of India,
Ministry of Personnel,
Public Grievances and Pensions,
(Department of Personnel & Training),
New Delhi.
2. Shri R.K. Ganger,
Joint Secretary (since retired)
R/o C-9, Sector 15,
Noida (UP).
3. Shri R.K. Saini,
Joint Secretary,
Ministry of Labour,
Shram Shakti Bhawan,
New Delhi.

22

4. Shri C.L. Bashal,
Director,
Ministry of Petroleum and
Natural Gas,
Shastri Bhawan,
New Delhi.
5. Shri P.K. Jalali,
Director,
Central Vigilance Commission,
Bikaner House,
Pandara Road,
New Delhi.
6. Shri S.K. Chattopadhyay,
Deputy Director General,
All India Radio,
Akashwani Bhawan,
New Delhi.
7. Shri Satish Chander,
Director,
Ministry of Mines,
Shastri Bhawan,
New Delhi.
8. Mrs. Meena Garg,
Director,
Ministry of Urban Affairs and
Power, Alleviation,
Nirman Bhawan,
New Delhi.

None present.

O R D E R (ORAL)

Hon'ble Mrs. Shanta Shastri, Member(A).

When the case was called out, neither the parties nor the counsel for the parties were present. Since this is a matter of 1995, we have perused the pleadings and proceeded to decide the case on merit.

2. The applicants are members of the Central Secretariat Service (CSS) and belong to Group 'A' Central Civil Services of the Union of India. The applicants were included in the Selection List of 1983 batch and promoted accordingly as Deputy Secretary. On completion of 8 years' service as Deputy Secretary, they became eligible for

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(29)

promotion to the grade of Joint Secretary in July, 1991. The respondents^{no. 1} initiated the process for empanelment of officers to the grade of Joint Secretary in 1991. 20 officers were empanelled in the Joint Secretary's panel in the year 1991. However, the final approval to the panel was given in February, 1993. In the meantime, the respondents^{no. 1} also took action to finalise the panels for 1992-1993. Thereafter, some of the officers empanelled in 1992 and 1993 were given appointments as Joint Secretary in different Departments/Ministries of the Govt. of India. Some officers from the panel of 1991 were also given appointments as Joint Secretary. It is the grievance of the applicants that while they still had not been appointed as Joint Secretary, some of the juniors who were selected during 1992 and 1993 had been appointed as Joint Secretary in supersession of the claims of the applicants. The applicants have prayed to direct the respondents to appoint them as Joint Secretary w.e.f 10.11.1993, that is the date on which the first officer of the 1992 panel was promoted to the grade of Joint Secretary and to pay consequential benefits. The applicants have also prayed that their actual service of 3 years required for promotion to the grade of Additional Secretary should be counted from 10.11.1993. The applicants have also sought a direction that the officers of 1992 and 1993 panel should continue to remain junior to them, that is, the applicants from the panel of 1991, irrespective of the actual date of posting of junior officers.

3. The main contention of the applicants is that though they were included in the panel of Joint Secretary of 1991, the respondents^{no. 1} instead of giving them appointments as Joint Secretary have given appointments to officers in the

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panels of later years, i.e. of 1992 and 1993 The applicants being senior should have been provided the appointments first.

4. Respondent No.1 in their counter have explained the entire Scheme known as the "Central Staffing Scheme" and the procedure followed for empanelment and appointment of the officers at the level of Deputy Secretary, Director and Joint Secretary. The Central Secretariat officers are considered for appointment at the level of the Director and Joint Secretary only after their names are included in the respective suitability lists. The Civil Services Board finalises the panel for submission to the Appointments Committee of the Cabinet (ACC). The Board is assisted by a Screening Committee of Secretaries. The panel approved by the ACC on the recommendations of the Civil Services Board is to be utilised for making appointments to the posts under the Govt. of India, but inclusion in the panel does not confer any right to such appointment under the Centre. Further, according to Clauses 20 and 21 of the Central Staffing Scheme while making appointments to the posts at the level of Deputy Secretary, Director and Joint Secretary, a panel of three names for each vacancy, keeping in view the educational qualifications, service, experience and special training required for effective performance of the job, is suggested. Clause 21(iii) of the Scheme lays down that the Civil Services Board after taking into consideration the offer list, will finalise a panel of three names in order of preference for each vacancy of Joint Secretary/Director/Deputy Secretary. No special posts are earmarked exclusively for the Central Secretariat Services at these levels.

93

5. The respondents^{no 1} in their counter have also relied on the judgement delivered by this Tribunal (Principal Bench) in the case of **Shri K.L. Gupta Vs. Union of India** (O.A 763/95) in which the various provisions contained in the Central Staffing Scheme have been upheld.

6. The respondents^{no 1} have submitted that 15 CSS officers belonging to the 1983 Selection Grade Select List of CSS were finally approved by the competent authority for inclusion in the Joint Secretary's suitability list in February, 1993. Subsequently, 5 officers belonging to the 1983 Selection Grade List were added to the suitability list of Joint Secretary in October, 1994. Thus, a total of 20 officers were included in the Joint Secretary's suitability list. From amongst these 20 officers, 7 officers have already been appointed at the level of Joint Secretary/equivalent posts at the Centre after following the prescribed procedure, as laid down in the Scheme. Efforts were also made to find suitable placement for the remaining 13 officers at the level of Joint Secretary/equivalent posts. There were five CSS officers included in the Joint Secretary's suitability list from 1984 Selection Grade Select List of CSS in June, 1993. The name of one officer from the 1984 Selection Grade Select List was added to the Joint Secretary suitability list in November, 1994 thus making a total number of 6 officers included in the Joint Secretary's suitability list from the 1984 Selection Grade Select List of CSS. Of these 6 officers, 5 officers have already been appointed as Joint Secretary by way of personal upgradation of the posts held by them to the level of Joint Secretary, keeping in view the existing instructions contained in the O.M. dated 15.10.1990 of the Department of

1

24

Personnel and Training. These instructions provide that the posts of Director held by the CSS officers whose names figure in the Joint Secretary's suitability list and who are retiring within a period of one year, may be upgraded to the level of Joint Secretary as a measure personal to them. Therefore, the cases of these officers where appointments have been made by upgradation of the posts, as a measure personal to them, are distinct from the officers, who are to be appointed at the level of Joint Secretary in terms of the procedure laid down in the Scheme. It has been further stated that the case of Shri R.K. Ganger, CSS (1984 Selection Grade Select List), who was included in the suitability list of Joint Secretaries, is distinct as he was to retire within a period of one year and his appointment as Joint Secretary was made by upgradation of the post held by him to the level of Joint Secretary as a measure personal to him. Similarly, from the 1985 Selection Grade Select List, there were 5 officers included in the suitability list in November, 1994. Out of these 5 officers, one officer has been appointed at the level of Joint Secretary in terms of the procedure laid down in the Scheme. According to the respondents¹ the applicants are trying to confuse the issue relating to the seniority with that of the suitability list of Joint Secretary of CSS officers. The process of empanelment for the posts of Joint Secretary or equivalent is altogether different from the DPC procedure. Respondent No.1 further contends that there is a large number of cases where the seniority of officers of the Central Services and All India Services holding posts at the level of Joint Secretary, varies upto 10 years. While some officers of 1976 batch of the IAS have been appointed as Joint Secretary at

12

295

the Centre, officers of the same Service belonging to the seniority from 1967 to 1976 batches have not been appointed as Joint Secretary.

7. After perusal of the pleadings and the relevant records we note that the stand of the respondents^{no. 1} that even though officers from the Central Secretariat Service are included in the suitability list of Joint Secretaries, the appointment to the post of Joint Secretary is subject to availability of vacancies and again subject to their being picked up from the different Departments/Ministries as per the panel of three officers according to the preference indicated by the Civil Services Board, is in order. Secondly, according to the instructions, if a person is already at the level of Director and he is likely to retire within a period of one year, then upgradation of the post of Director to that of Joint Secretary is permissible as a measure personal to the incumbent. Thus, we find that there has been no discrimination or arbitrariness on the part of the respondents and they have followed the procedure as laid down in the Central Staffing Scheme and the extant instructions in the matter, strictly. Further, it is not that Respondent No. 1 is not going to provide the applicants appointment to the post of Joint Secretary. Respondent No. 1 considering the delay in providing appointments as Joint Secretaries to those in the suitability list of Joint Secretaries have of their own initiative taken a decision in April, 1995 that the CSS officers who could not be appointed as Joint Secretary during circulation of their names may be considered for mandatory posting if they have been empanelled for 3 years or more or have got only 2 years of service of their superannuation. At the time when the O.A. was filed,

26

none of the applicants had become eligible for appointment at the level of Joint Secretary by way of such mandatory posting. In the facts and circumstances of the case, we do not find any merit in the O.A. and accordingly dismiss the same. We do not order any costs.

Law. J-
(Mrs. Shanta Shastri)
Member(A)

Am. Srinivas Reddy
(Justice V. Rajagopala Reddy)
Vice Chairman (J)

'SRD'