

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1675/97

New Delhi this the 21<sup>st</sup> day of December, 2000.

HON'BLE MR. JUSTICE V. RAJAGOPALA REDDY, VICE-CHAIRMAN  
HON'BLE MR. GOVINDAN S. TAMPI, MEMBER (ADMNV)

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Smt. Neera Yadav,  
w/o Sh. Mahendra Singh Yadav,  
R/o C-1/1356, Vasant Kunj,  
New Delhi. ....Applicant

(By Senior Advocate Shri M.N. Krishnamani with  
Shri M.S. Yadav and Monika Dewan, Counsel)

-Versus-

1. Union of India,  
through its Secretary,  
Personnel Department,  
New Delhi.
2. State of U.P.,  
through its Chief Secretary,  
U.P. Government,  
Secretariat Annexe, Lucknow.
3. Chief Secretary,  
U.P. Government,  
Secretariat Annexe,  
Lucknow.
4. Secretary - Appointments & Personnel,  
U.P. Government,  
Secretariat Annexe,  
Lucknow. ....Respondents

(By Advocate Shri K.R. Sachdeva)

O R D E R

By Justice V. Rajagopala Reddy, Vice-Chairman (J):

The only relief that is pressed in this case is for empanelment of the applicant to the post of Joint Secretary in the Government of India, retrospectively from 1989.

2. The facts in brief: The applicant is a senior I.A.S. Officer who joined the Indian Administrative Service in 1971. She held many important and sensitive assignments during the span of 26 years of long and unblemished career. Because of her merit and caliber four important posts were given to her which otherwise would

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have been held by four different IAS officers. She was also conferred Mahila Shiromani Award. She was promoted to the super time scale in 1987 and promoted to the next higher rank of Principal Secretary to the Government. (21)

3. The applicant was recommended for empanelment to the post of Joint Secretary in the Government of India along with other batchmates in October, 1989 but later she was shocked to learn that she has been de-pannelled during 1991. When her case was reviewed it was learnt though her name has been approved by the Civil Service Board headed by the Cabinet Secretary, her name was turned down by the ACC at the instance of Sh. A.N. Verma, a retired officer who was the then Principal Secretary to the Prime Minister. It is alleged that he was aggrieved with the applicant because she refused to oblige his daughter Smt. Anjali Prasad, IAS. Hence, her file remained with the PMO for full 1-1/2 years without any action. The applicant detailed several instances in the OA as to how the said Sh. A.N. Verma was aggrieved by her.

4. Aggrieved by the inaction of the respondents in not empanelling the applicant she brought the present OA seeking empanelment.

5. Respondents 1 and 2 filed replies separately and contested the OA. It was averred that as per the Central Staffing Scheme she was empanelled for the the post of Joint Secretary to the Government of India in 1990. However, as it was noticed that she had not fulfilled the prescribed bench mark and as she was empanelled inadvertently, on rectification of the mistake, her name



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was deleted from the list. Subsequent to that her case has been reviewed twice but she was not found fit to hold the post of Joint Secretary. Respondents deny all the other allegations made in the OA.

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6. We have given careful consideration to the submissions made by the learned counsel on either side. We have also perused the original records produced by the respondents, as directed, relating to her initial empanelment and the two reviews made. The selection for empanelment to the posts of the level of Under Secretary and above in the Government of India are made as per the Scheme evolved by the Government, viz. Central Staffing Scheme. The validity of the Scheme is not in question. A suitability list called panel, has to be drawn up of the eligible officers from All India Service and Group 'A' Services participating in the Central Staffing Scheme which should be conducted normally on an annual basis considering officers with the same year of allotment together as one Group (para 7). The Civil Services Board (CSB for short) finalises the panel for submission to the ACC which is assisted by the Screening Committee of Secretaries (para 9). Officers who are not empanelled would be reviewed after a period of two years and another such review may be made after a further period of two years (para 10).

7. A perusal of the minutes of the meeting of the CSB held on 6.3.89 shows that a total of 89 officers of the 1977 batch of IAS were considered for empanelment as Joint Secretary out of which 83 have been seen by the ACC and six officers remained to be considered. The applicant was also one of the candidates considered and recommended

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for inclusion in the panel and the ACC also approved her inclusion in the panel. However, in the proceedings dated 13.3.90 found that her case was re-examined, the Board recommended that her name to be retained in the suitability list. Subsequently in the meeting held on 10.2.91, as it was found that she has got one 'Very Good plus' and two 'Good' and did not hold the post of Joint Secretary, her name was deleted from the list. Thus, her name has been deleted from the panel. The deletion of the applicant from the panel has specifically not been challenged before the Tribunal and we are of the view that the same cannot be challenged at this stage, in view of limitation. Even if the action of the respondents in deleting the name is found invalid, no relief could be granted, on that ground.

8. Her case was reviewed for the first time in 1992. Out of 31 officers who were not empanelled at the time of initial empanelment were reviewed and after considering the assessment made by the screening committee and after going through the records of the officer concerned the Board recommended inclusion of 9 names in the suitability list and the applicant is one of them. The said list has been sent to the ACC and the entire list has been approved excepting for the applicant. In the second review out of 10 officers of 1971 batch the Board has recommended in its meeting held on 10.1.94, the empanelment of 5 officers and the applicant was not one of them. The Minister of State of Personnel, however, had recommended the applicant's case also. On the basis of the proposals made by the Board and the MOS, ACC had made certain observations as regards the stringent test to be applied by the Board as to the suitability of the candidates

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✓ considered to be included in the panel. Accordingly the CSB undertook a fresh screening of the records of the four officers, in which the applicant was one of them. These proposals have been sent to the ACC for approval. The ACC, however, has not approved the proposal. A perusal of the file shows that on certain serious irregularities that were alleged against the applicant the CBI registered a case against her and a decision was taken to probe into the matter. Hence, the recommendation made to empanel her was not approved by the ACC.

9. No material is placed before us <sup>nor anything stated</sup> in the counter filed by the respondents as to the result of the probe against the applicant. It cannot be said that the action taken by the respondents was unwarranted. However, as it is found that the proposal made by the Board was not approved only on account of certain allegations and the pending probe, it is just and necessary that the proposal of the Board should be reconsidered by the ACC as and when she was cleared of all the allegations made against her. The question as to whether the applicant is also entitled to be considered for empanelment to the post of Additional Secretary in her turn, as she has completed 29 years of service as an IAS officer should also be considered by the respondents at the appropriate time.

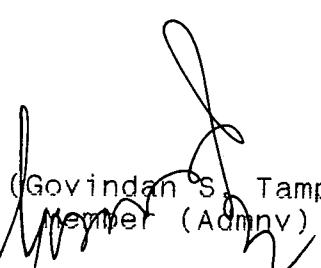
10. Though certain malafides are alleged against Sh. A.N. Verma, alleged ex Principal Secretary to the Prime Minister, as <sup>W<sup>ard</sup></sup> that officer has not been impleaded by name as one of the respondents he cannot be expected to rebut the allegations. From the records, it does not appear

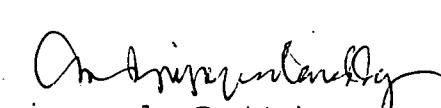
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that he was any where in the picture. However, as no material is also placed before us in support of the malafides, the allegations of malafides are rejected.

11. As a result of the above discussion the OA is disposed of with the above observations. No costs.

12. All the original records are hereby handed over to the learned counsel for the respondents.

  
(Govindan S. Tampi)  
Member (Admnv)  
'San.'

  
(V. Rajagopala Reddy)  
Vice-Chairman (J)