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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

DA No. 3005/97

New Delhi: this the 28th day of August, 2000.

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

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

Partha Chattopadhyay,

S/o Late Dr. D. N. Chattopadhyay,

Chief Statistical Adviser,

Directorate of Income Tax,

Department of Revenue,

Ministry of Finance,

Hans Bhawan, Wing I,

Bahadur Shah Zafar Marg,

New Delhi

.....Applicant.

(Applicant in person)

Versus

1. Union of India
through
the Secretary,
Department of Statistics,
Ministry of Planning and Programme Implementation,
Sardar Patel Bhavan,
Sansad Marg,
New Delhi-1
2. Shri S. K. Das,
3. Shri A. K. Yogi
4. Shri T. S. Krishnan,
5. Shri Jogeswar Dash
6. Shri Ramesh Kolli,
7. Shri D. N. Chaturvedi
8. Shri K. R. Ramanakarthan
9. Shri Shankara Ramani,
10. Shri V. K. Arora
11. Shri Vijay Kumar

Sl. No. 2 to 11 through the Secretary, Department
of Statistics, Ministry of Planning & Programme
Implementation, Sardar Patel Bhavan, Sansad Marg,
New Delhi-110 001.

(By Shri J. K. Mehan, SO with Sh. N. K. Sharma, Depttl. Rep.)

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ORDER

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

Applicant impugns respondents' order dated 4.1.96 (Annexure-A1) and order dated 4.1.96 (Annexure-A2). He seeks a direction to respondents to recalculate the yearwise vacancies to ISS Gr.III and make promotions accordingly. He also seeks a direction to respondents to declare him promoted to ISS Gr.III with effect from the date an appropriate vacancy arose for him in that grade, and also a direction that he has been holding a regular ISS Gr.III vacancy w.e.f. 12.7.78. He further seeks recalculation of yearwise vacancies to ISS Gr.II and the correct drawing up of consideration zone for effecting promotions to ISS Gr.II. Furthermore he seeks quashing of the relaxation of Rule 8 (1)(c) ISS Rules, 1961.

2. Specifically applicant asserts that he is entitled to be promoted to grade III of ISS w.e.f. 12.7.78 and to Grade II of ISS w.e.f. 1984-85 as averred in para 4.34 of his OA, as against which respondents have promoted him to Grade III w.e.f. 24.11.87 and to Grade II w.e.f. 7.4.93.

3. Admittedly applicant was directly recruited in ISS Gr.IV on 10.11.75. By order dated 14.6.78 (Annexure-A4) he was posted as a Dy. Director equivalent to ISS Gr.III. Meanwhile pursuant to the Hon'ble Supreme Court's judgment dated 11.2.86 in Narendra Chadha & Ors. Vs. UOI & Ors. (CMP No.2604/85 in CWP No.1595/79) respondents prepared a final revised seniority list of Gr.IV Officers as on 11.2.86 which

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was issued on 8.5.86 (Annexure-R1). Applicant has not shown us any material to establish that he challenged that final revised seniority list showing him to be a ISS Grade IV Officer as on 8.5.86.

4. Pursuant to the aforesaid judgment, and based upon the aforesaid final seniority list, respondents were also required to review all promotions made from Grade IV to Gr.III, but if as a result of such review any officer faced reversion, he was not to be reverted, and supernumerary posts were to be created to accommodate them. Further promotions were however to be given only on the basis of the revised final seniority list.

5. Pursuant to the above, applicant was one (Sl.No.15) amongst 108 officers who had been promoted from Gr.IV to Gr.III between 1976-83 who were not eligible for regular promotion to Gr.III as per the revised seniority list dated 8.5.86 but were protected from reversion vide OM dated 19.6.86 (Annexure-R3). No materials have been shown by applicant to establish that he challenged this OM dated 19.6.86 either.

6. Eventually, on the basis of the revised final seniority list dated 8.5.86 applicant was promoted to ISS Gr.III w.e.f. 23.6.89 after the DPC had reassessed his fitness/suitability for promotion. However, as he and others similarly situated had been protected from reversion he was granted pay protection in ISS Gr.III upon applicant's promotion to ISS Gr.III w.e.f. 23.6.89, he was assigned seniority in Gr.III from that date.

7. No materials have been furnished by applicant that he ever challenged his seniority in Gr.III w.e.f.

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23.6.89 before filing this OA in 1997.

8. Meanwhile pursuant to the litigation leading upto the Hon'ble Supreme Courts' order dated 27.3.95 in IA No. 9 of 1995 in CA No. 3844/89 UOI & Ors. Vs. T.R. Mohanty & Ors., respondents correctly concluded that as there was no reservation in promotion to ISS Gr. III prior to the Notification dated 20.2.89, the only appropriate manner to implement the said judgment/orders was to undertake a total review of all the promotions made earlier to ISS Gr. III, on the basis of the revised finalised seniority list of ISS Gr. IV dated 8.5.86.

9. Pursuant to the aforesaid review respondents issued Annexure-A1 order dated 4.1.96 by applicant's promotion from Gr. IV to Gr. III has been antedated from 23.6.89 to 24.11.87 vide para 7 (iii) thereof.

10. Flowing from impugned A1 order dated 4.1.96, promotions from Gr. III to Gr. II were also reviewed culminating in impugned Annexure-A2 order dated 4.1.96 in which applicant's promotion to Gr. II on 7.4.93 remains unchanged.

11. A perusal of both the aforesaid impugned orders dated 4.1.96 reveals that they have been made subject to the final decisions in various court cases. Impugned Annexure-A1 order dated 4.1.96 has been made subject to the final decision in

- i) OA No. 371/89 P.P. De & Ors. Vs. UOI & Ors. filed in CAT Calcutta Bench.
- ii) OA No. 295/89 V.K. Srivastava Vs. UOI & Ors. filed in CAT Chandigarh Bench
- iii) OA No. 2011/93 T.R. Mohanty & Ors. Vs. UOI & Ors.
- iv) OA No. 864/95 Roshan Singh & Ors. Vs. UOI & Ors. filed in CAT PB.
- v) OA 477/99 (Cuttack Bench of CAT) V.J. Rama Rao Vs. UOI & Ors.

Similarly impugned Annexure-A2 order dated 4.1.96 has been made subject to the final decision in the aforementioned 5 OAs.

12. During the course of hearing of the OA, we were not informed of the final decision taken in respect of the above mentioned OAs.

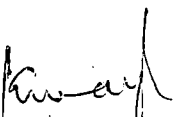
13. In so far as applicant's claim to be promoted on regular basis to ISS Grade III w.e.f. 12.7.78 is concerned, Rule 8 (b)(1) ISS Rules, 1961 requires officers to have completed 4 years' regular service in Grade III to be eligible for consideration for promotion. As applicant was directly recruited to ISS Gr. IV on 10.11.75, it is clear that he could not have been promoted on regular basis to ISS Gr. III w.e.f. 12.7.78, as he did not possess the required 4 years of regular service in ISS Gr. IV on 12.7.78. As applicant's claim to be promoted on regular basis to ISS Gr. III w.e.f. 12.7.78 has not succeeded, his claim to be promoted to ISS Gr. II in 1984-85 on completion of 6 years of regular service in ISS Gr. III w.e.f. 12.7.78 as required under Rule 8 (c)(1) ISS Rules, 1961 also fails.
~ (Subsequently reduced to 5 yrs) ~

14. In so far as applicant's prayer for issue of direction to respondents to recalculate the yearwise vacancies for ISS Gr. III and ISS Gr. II are concerned, no foundation to warrant issue of such general direction to respondents have been laid in this OA. Furthermore in so far as the quashing of the relaxation exercised by respondents of Rule 8(1)(c) ISS Rules is concerned, if the power of relaxation is available with respondents and the same has been exercised by them, there are no good reasons to warrant judicial interference.

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15. In the result the OA warrants no judicial interference. It is dismissed. No costs.


(KULDIP SINGH)
MEMBER (J)


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

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