

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

OA No.581/1997

New Delhi, this the 14<sup>th</sup> day of November, 2003

Hon'ble Shri Justice V.S. Aggarwal, Chairman  
Hon'ble Shri S.A. Singh, Member(A)

1. Shri A.K.Chaturvedi  
S/o Late Shri P.C.Chaturvedi  
R/o 23/213, Lodi Colony  
New Delhi.
2. Shri J.P.Rai  
S/o Late Shri Vindhyaachal Rai  
R/o Delhi Adm.Flats  
G.K.I. New Delhi.
3. Sh.R.D.Srivastav  
S/o Late Shri Sharda Prashad  
R/o D2 M.C.D.Flats  
R.Block, G.K.I  
New Delhi.
4. Shri S.N.Srivastav  
S/o Late Shri R.L.Prashad  
R/o Delhi Admn.Flat No.38  
G.K.I  
New Delhi.

.. Applicants

(Shri Jayant Nath, Advocate)

versus

1. Union of India, through  
Secretary  
Ministry of Home Affairs  
New Delhi.
2. Secretary  
U.P.S.C.  
Dholpur House  
New Delhi.
3. Shri U.K.Worah  
R/O D-II/83, Pandara Road  
New Delhi.
4. Shri R.Raghuraman  
R/o Flat No.14  
Rajpur Road  
Delhi.

.. Respondents

( Shri N.S.Mehta, Advocate for respondent No.1  
Shri A.K.Bhardwaj, Advocate for respondent No.2  
None for respondents 3 and 4)

Justice V.S. Aggarwal

60

The applicants had joined the Delhi Andaman Nicobar Islands Civil Service in 1974. Respondents 3 and 4 had joined the same in the year 1976. The Delhi and Andaman and Nicobar Islands Civil Service Rules, 1971 (for short, the Rules) contemplated recruitment of officers i.e. 50% by direct recruitment and 50% by promotion from Grade I of Delhi Administrative Subordinate Service (DASS). Prior to January 1986, the said service comprised of two grades, Grade II which was the entry grade into the service and Grade I which was a selection grade. In 1982, the applicants were appointed to Grade I after completion of the prescribed 8 years of service in Grade II. Respondents 3 and 4 were appointed after the applicants. The Government of India, Ministry of Home Affairs vide order dated 26.11.1987 introduced a new scale called Junior Administrative Grade with effect from 1.1.1986. In order to give effect to the said decision, the Rules were amended on 22.11.1988. As per Rule 31 of the Rules, an officer with minimum of five years regular service in Grade I shall be eligible for being considered for promotion to the Junior Administrative Grade. However, for vacancies occurring upto 31.12.1991, an officer at least with four years of regular service in Grade I shall also be considered for promotion to the Junior Administrative Grade. Under sub-rule (3) to Rule 31, the crucial date for determining the eligibility of officers for promotion to the Junior Administrative Grade shall be 31st December of the year in which the vacancy had occurred.

USAg

61

2. The Departmental Promotion Committee met to select the individual officers for appointment to the post of Junior Administrative Grade and in the first instance, 52 officers were appointed to the said Grade i.e. 30 officers were granted the benefit of the scale of Rs.3700-5000 from the date of joining while 22 officers who were working against ex cadre posts were granted the said scale under the Next Below Rule.

3. The applicants contend that they are senior to respondents 3 and 4. Respondent No.3 is shown to have been appointed in the Junior Administrative Grade with effect from 30.11.1987 as against his earlier date of appointment 17.5.1989. Respondent No.4 has been shown to have been appointed from 1.8.1988 as against his earlier date of appointment 9.8.1988. They had been granted the scale before the applicants. By virtue of the present application, they seek quashing of the said notification of 9.8.1996 and revival of earlier notification contending that they are entitled to the Junior Administrative Grade over and above the private respondents (respondents 3 and 4).

4. In the reply filed by the Union of India (respondent No.1) it has been contended that the seniority list of the officers of Grade-II of Delhi Andaman Nicobar Islands Civil Service had to be changed and consequent review of panels of Selection Grade and Junior Administrative Grade became necessary in view of

*As Ag*

62

the decision of this Tribunal in the case **S.S.Gautam and Others v. Union of India etc.** in TA No.235/1985 (C.W.P.No.566/1976) rendered on 17.9.1987. In compliance of the directions of this Tribunal, a meeting of the Selection Committee to review the panels from 1986 to 1993 for promotion of Selection Grade Officers to Junior Administrative Grade was held. The Committee determined the zone of consideration for the years 1986 to 1993. As per revised seniority list, the names of the applicants were considered in the eligibility list of 1986 along with 48 other eligible officers. The Committee examined the service record of all eligible persons. In accordance with the instructions contained in para 6.2.2. of the Departmental Promotion Committee guide-lines, the Committee assigned an overall grading such as 'Outstanding', 'Very Good', 'Good', 'Average' or 'Unfit' as the case may be. The applicants were assessed as 'Very Good'. However, their names could not be included in the panel of 1986 for want of sufficient number of vacancies. Respondents 3 was not eligible for consideration during 1986. As regards supersession of the applicants, it was pointed that the benchmark for promotion to Junior Administrative Grade is 'Very Good'. The officers who earned 'Outstanding' grading are en bloc placed above the officers who are graded as 'Very Good'. For the year 1987, the applicants were considered. On overall assessment, they were graded as 'Very Good' while respondent No.3, and Shri Chandra Gupta on overall assessment were assessed as 'Outstanding'. As per the

LSA

63

Departmental Promotion Committee guide-lines, their names were placed at Sl.No.1 and 2. The name of the applicant No.1 was included at Sl.No.4 in the panel of 1987 while the name of the applicant Shri R.D.Srivastava was included at S.No.7. The names of the applicants Shri S.N.Srivastava and Shri J.P.Jai could not be included in the panel due to lack of sufficient number of vacancies. As regards, the plea of the applicants that respondent No.3 had not completed the requisite service of 4 years in Grade I, it was stated that in fact he had been considered for the vacancies occurring in the year 1987. He was appointed to Selection Grade on 20.9.1983 and from this date he had completed 4 years as on 31.12.1987.

5. A separate reply was filed by the Union Public Service Commission (respondent No.2). Reference was made to the earlier orders passed by this Tribunal in the case of S.S.Gautam (supra) and it was stated that in pursuance thereto, a revised seniority list of Grade I of DASS had to be drawn. Rest of the pleas were by and large the same as that of respondent No.1 which require no repetition.

6. Respondent No.3 in the separate reply pointed that he has always been receiving 'Outstanding' confidential reports and it is in pursuance of the same that his claim had been considered and the Junior Administrative Grade had been granted. It was denied that review of the cadre would affect the inter se

As Ag e

6A

seniority between promotees after the decision of this Tribunal in the case of S.S.Gautam (supra).

7. Respondent No.4 even filed his own reply contending that he had been rightly assigned the seniority in the Junior Administrative Grade.

8. Earlier this Tribunal had dismissed the application on 31.5.2000. Civil Writ Petition No.6738/2000 was preferred by the applicants in the Delhi High Court and the matter has been remitted back to this Tribunal vide order dated 16.9.2002.

9. When the matter was listed for arguments, there was no appearance on behalf of respondents 3 and 4.

10. The learned counsel for the applicants raised two arguments which we shall be considering hereinafter. (1) The seniority list and the grant of Junior Administrative Grade could not be reviewed because according to the learned counsel in the case of S.S.Gautam (supra), the respondents were required only to consider and recast the seniority of persons other than the direct recruits; and (2) Respondents 3 and 4 were not eligible to be considered for Junior Administrative Grade.

11. Taking up the first argument, it would be worthwhile to mention that in the case of S.S.Gautam

GA

65

*in that matter*  
(supra) the applicants were appointed to Grade I of DASS. They had prayed for a direction to the respondents to act on the seniority list of 13.8.1970. This Tribunal was concerned with the question of seniority pertaining to persons who were not direct recruits in the grade of DASS which is a feeder cadre of Delhi Andaman and Nicobar Islands Civil Service. The application was disposed of with the following findings:-

✓  
"10. In the facts and circumstances, we allow the petition only to the extent of quashing the impugned seniority list of 26.9.1974 and directing that in the relevant seniority lists of Grade I of the DASS the respondents who were appointed to the Service under Rule 5 retrospectively by the impugned order of 19.2.1976 should be placed below the petitioners and others like them who had been selected and appointed to DASS earlier by orders issued prior to 19.2.1976 under the same rule. There will be no order as to costs."

As a consequence of the said directions of this Tribunal, the exercise for redrawing the seniority list had been undertaken.

12. It is true that the applicants were not parties in that litigation, but after selecting officers at the entry grade, i.e. Grade II of DANICS, a combined seniority list of promotee and directly recruited officers is drawn by the Ministry of Home Affairs. On basis of this combined seniority list, Grade II officers of DANICS were appointed to selection grade and the officers of the selection grade were appointed to the

*LSA*

bb

Junior Administrative Grade. Once a panel for promotion <sup>posts</sup> to higher grade is to be reviewed, necessarily the same would be in consonance with the seniority in the feeder grade. In terms of the directions of this Tribunal, the seniority of the feeder grade i.e. Grade II of DANICS was revised. Accordingly the panels prepared from 1973 to 1982 were reviewed and, therefore, it had its impact on the seniority list which had to be regone into. In such a situation, the plea of the applicants cannot be accepted because at no point of time, they had challenged that the said order could not have been passed in the case of S.S.Gautam (supra).

13. Reverting to the second argument, the plea raised was that respondents 3 and 4 were junior to the applicants. We have already given the resume of facts that in the review committee meeting, the respondents 3 and 4 were found to be having better confidential reports though the applicants were also meeting the benchmark. However, the plea of the applicants is that respondents 3 and 4 were not eligible. It was contended firstly that respondent No.3 had not completed four years of service in Grade I and 12 years of combined regular service in Grade I and Grade II. Sub-rules (1), (2) and (3) of the Rules reads as under:-

"31. Appointments to Junior Administrative Grade and to Selection Grade.

(1) Appointments of members of service to the Junior Administrative Grade shall be made by

ls Ag



67

promotion on selection basis on the recommendation of the Selection Committee. The composition of the Selection Committee shall be as under:-

- (i) the Chairman or a Member of the Commission- Chairman

MEMBERS

- (ii) an officer in the Ministry of Home Affairs not below the rank of Joint Secretary to the Government of India;

- (iii) the Chief Secretary, Delhi Administration; and

- (iv) the Chief Secretary of the Andaman and Nicobar Administration or any officer in the Ministry of Home Affairs not below the rank of Joint Secretary.

(2) An officer with a minimum of five years of regular service in Grade I shall be eligible for being considered for promotion to Junior Administrative Grade.

Note: However, for vacancies occurring upto 31.12.1991, an officer with at least four years regular service in Grade I shall also be eligible for being considered for appointment to Junior Administrative Grade provided he has got a minimum 12 years of combined regular service in Grade I and Grade II. Provided that any service rendered in Grade II which was taken into account for promotion to Grade I by a duly constituted D.P.C. will be deemed to be regular service for the purpose of reckoning qualifying years of service:

Provided further that service rendered in an equivalent post in a State Civil Service or in Grade II of the Delhi and Himachal Pradesh Civil Service or Delhi, Himachal Pradesh and Andaman and Nicobar Islands Civil Service shall count towards the 12 years period;

Provided further that where a junior person is considered for such appointment, all persons senior to him shall also be considered for promotion to Junior Administrative Grade provided they have put in at least four years regular service in Grade I.

(3) The crucial date for determining the eligibility of officers for promotion to the Junior Administrative Grade shall be 31st December of the year in which the vacancy has occurred.

Note: For promotion to the Junior Administrative Grade yearwise panel will be prepared from the year 1986 i.e. w.e.f. the year

GA

19

in which the Junior Administrative Grade has been created and the crucial date will be 31st December of the year to which the panel pertains."

It is obvious from the aforesaid that a person can be promoted/appointed to the Junior Administrative Grade if he has 5 years of regular service in Grade I. However, for vacancies occurring upto 31.12.1991, an officer with four years of regular service in Grade I besides 12 years of combined regular service in Grade I and Grade II has also to be considered for appointment to Junior Administrative Grade. As per second proviso to sub-rule (2) to Rule 31 of the Rules where a junior person is considered for such appointment, all persons senior to him shall also be considered for promotion to Junior Administrative Grade.


14. Record reveals that both respondents 3 and 4 had four years of service in Grade II of the DANICS because they were appointed on 17.5.1989.


15. However qua respondent No.3, it transpires that he did not have 12 years of combined regular service in Grade I and Grade II at the relevant time. This becomes apparent from the fact that the said respondent had joined service only on 1.6.1976. He could not be considered for vacancies occurring in the year 1987 because at that time he did not have the required number of years of service. To this extent, there appears to be an inadvertent mistake that has occurred in the matter.

As Ag e

69

16. Resultantly, we only partly allow the present application. It is directed that keeping in view that the respondent No.3 did not have the necessary qualifying years of service to his credit, the claim of the applicants should be reconsidered and seniority besides other consequential benefits in Junior Administrative Grade should be accordingly granted to them. No costs.

  
(S.A. Singh)  
Member (A)

  
(V.S. Aggarwal)  
Chairman

/sns/