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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

DA No. 428/94

New Delhi: this the 10th day of November, 2000.

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

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

Bushan Lal Kaul,
S/o Shri Prithvi Nath Kaul,
R/o D-52, IB Colony,
Sardar Patel Marg,
New Delhi-21.

.....Applicant.

Employed as

JIO Grade I

in IB,

Ministry of Home Affairs,

GOI,
North Block,

New Delhi

(By Advocate: Shri B. B. Rawal)

Versus

Union of India,
through the Secretary,
Ministry of Home Affairs,
Govt. of India,
North Block,
New Delhi.

2. The Director,

Intelligence Bureau,

Ministry of Home Affairs,

North Block,
New Delhi.

.....Respondents.

(By Advocate: Shri N. S. Mehta)

ORDER

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

In this amended DA applicant impugns respondents' Memorandums dated 29.9.93 (Annexure-A) and dated 3.1.94 (Annexure: B), as well as the amended Recruitment Rules of 1992 (Annexure-C).

2. Applicant was given offer of appointment

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as Constable vide Memo dated 26.11.69 and joined as Security Assistant (equivalent to Constable) in Subsidiary Intelligence Bureau, MHA, Jammu on 29.11.69. He was promoted to Jr. Intelligence Officer, Gr. II on 21.5.81 and as JIO Gr. I on 22.3.90. As per his own averments, between 29.11.69 and 1989, he served in J & K State except for a spell of training in MP State.

3. According to him in December, 1989-January, 1988 his entire home was looted in Srinagar, and because of the disturbed condition there, he was transferred to Delhi in I.B where he reported on 5.3.90, and was soon after promoted as JIO Gr. I. Applicant contends that on coming to Delhi he came to know that those who had joined the IB later than him had been promoted to the next higher rank of ACIO II in 1988 itself, whereas in 1988 he was only JIO Gr. II, and even till in 1992 he was working as JIO Gr. I. Applicant states that he represented against this and after several reminders received OM dated 29.9.93 in which he was informed that Security Assistants recruited in one SIB could not be compared with that of another SIB as seniority in this rank was maintained on decentralised basis. Applicant contends that he submitted a further representation on 18.11.93 against the aforesaid OM dated 29.9.93, upon which he received OM dated 3.1.94.

4. Amongst the grounds taken by applicant in the OA it has been contended that in his appointment letter one of the conditions was that he was liable

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to serve anywhere in India. It is stated that nowhere in the terms and conditions of his appointment was it stated that his seniority as Security Assistant would be maintained only with regard to Srinagar set up and that he would have to face centralised seniority only after promotion as JIO Gr.II. He emphasises that if in terms of his letter of appointment, he was required to serve anywhere in India, the cadre of SA's upwards should be a centralised one and maintenance of the cadres in SIB's below JIO Gr.II on decentralised basis is arbitrary and illegal.

5. Respondents in their reply state that IB has its units in different States, known as SIBs which are headed by a Deputy Director/ Asstt. Director/ Central Intelligence Officers. As per RRs for the posts of JIOs/HCs/ Constables issued in 1958, Dy. Director/Asstt. Directors/CIOs could promote officers to the grade of JIO and HC from the grade of HC and Constable respectively. As per RRs' recruitment at the lowest level of Constables was made by different SIBs locally and promotion from Constable to Head Constables and H.C to JIO were made by respective SIB(s) on decentralised basis. In some SIBs, SAs got earlier promotions than their counterparts in other SIB(s) because of the availability of vacancies. It is at the level of JIO Gr.I that the promotions got centralised vide amended RRs of 1992, and for promotion to JIO Gr.I, 8 years regular service in the feeder grade was necessary. As such applicant cannot compare himself with members of the SIB(s) in decentralised cadre.

6. This very issue happened to be considered by

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CAT Ernakulam Bench in OA No.806/90 V.M.Nair & Ors. Vs. Asstt. Director (Admn) SIB, Trivandrum & Ors. In that O.A., applicants who were working as JIOs Gr.I were aggrieved by the fact that private Respondents 4 and 5 were occupying the higher posts of ACIO Gr.II in SIB Trivandrum and Trichur respectively, though these respondents were junior to the applicants, when they started service as Constable, redesignated as SAs. Applicants in that OA had submitted representation seeking promotion as ACIO Gr.II retrospectively with effect from the date from which Respondent No.4 had been promoted. That representation having been rejected by respondents' Memo dated 15.3.90, those applicants had filed OA No.806/90.

7. That OA No.806/90 was dismissed by detailed order dated 16.10.91 (Annexure-II) after hearing both parties leaving it to the wisdom of official respondents whether they wanted to perpetuate a situation when juniors were occupying the higher posts of ACIO Gr.II, while their senior continued to occupy the lower posts of JIO Gr.II. One of the main reasons why the OA was dismissed as is clear from a perusal of the order dated 16.10.91 was the RRs provided for promotion on the basis of seniority in the respective SIB i.e. decentralised seniority and applicants had not specifically challenged the RRs.

8. In its aforesaid order dated 16.10.91 the Bench noticed that respondents were themselves aware of the problems of SAs of a batch getting promoted earlier as JIO Gr.II in one SIB while SAs of the same batch working in another SIB got promotion later. To remedy this situation respondents had themselves issued letter dated 20.3.90 in which it had been stated

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"There have been accelerated promotions in certain SIBs whereas on the other hand there have been decentralised (decelerated ?) promotions in some other SIBs depending upon the number of vacancies. This anomalous situation has since been corrected and promotions of SAs to the grade of JIO Gr.II though on decentralised basis are being indirectly controlled from IB Hqs to provide equal face of promotion in all SIBs. We are permitting all the SIBs to promote SAs of a particular year of seniority that there is no cause for any grouse as far as possible. However, it is regretted that we are unable to do anything about the past cause despite own best efforts."

9. Applicant's counsel Shri Rawal has argued that in the present OA the RRs have specifically been challenged and hence the deficiency noticed in the Tribunal's order dated 16.10.91 of non-challenge to the RRs themselves which led the Bench to dismiss the OA has been made good.

10. We have considered the rival contentions carefully.

11. We are unable to find anything illegal or arbitrary in the RRs which take into account the fact that there are Subsidiary Intelligence Bureaus and the cadre is decentralised till the level of JIO Gr.II. Indeed in a country as vast and varied as ours, it would create severe bottlenecks if the cadre was centralised even at the level of SAs and JIO Gr.II. Respondents themselves are clearly aware of the anomalous situation created in certain cases owing to accelerated promotions in certain SIBs because of the availability of vacancies, and have sought to correct it as is clear from the contents of their letter dated 20.3.90 by permitting all SIB(s) to promote SAs of a particular year of seniority at least in regard to future cases. Respondents have expressed

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regret that they are unable to do anything about past cases despite their best efforts.

12. In our view respondents should act strictly in accordance with their own letter dated 20.3.90. There are certainly not adequate grounds to warrant interference in the RRs themselves, which would reopen past cases, and as pointed out by respondents in their reply, unsettle the seniority and promotion of a large number of IB employees of different decentralised cadres vis. JIO Gr.II as existed prior to 19.2.82. Indeed in OA No.2274/93 O.S.Rana Vs. UOI & Ors, wherein that applicant came to the Tribunal with an identical grievance, the Bench by its order dated 7.9.99 clearly held that he did not have a case on merit and dismissed the OA, after taking into account that it was also hit by limitation.

13. Subject to what has been stated in para 12 above, the OA is therefore dismissed. No costs.


(KULDIP SINGH)
MEMBER(J)


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

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