

FORM NO. 2
CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
Report on the Scrutiny of Application

SB/DB

DB

Presented by: Applicant in person Date of Presentation: 21.5.2000 Diary No. 1093

Applicant(s): G. S. Chavan Group: NP 11

Respondent(s): Union of India

Nature of grievance: Promotion

No. of Applicants: One No. of Respondents: 2

CLASSIFICATION

Subject: Promotion (No. 20) Department: HO MR. B (No. 13) * If S.B.

1. Is the application is in the proper form? (PROFORMA/COMPILEDATION)
(three complete sets in paper book form in two compilations).

2. Whether name, description and address of all the parties been furnished in the cause title? Yes

3. (a) Had the application been duly signed and verified? (SIGNED/VERIFIED)

(b) Have the copies been duly signed? Yes

(c) Have sufficient number of copies of the application been filed? Yes

4. Whether all the necessary parties are impleaded? Yes

5. Whether English translation of documents in a language other than English or Hindi been filed? Yes

6. (a) Is the application in time? (See Section 21) Yes

(b) Is MA for condonation of delay filed? MA

7. Has the Vakalatnama/Memo of appearance/00 authorisation been filed? Yes

8. Is the application maintainable? (u/s 2,14,18 or U/R 6 etc.)

u/s 2, u/s 14, u/s 18

U/R 6, PT u/s, 25 file

9. Is the application accompanied by IPO/DD for Rs.50/-?

LEGIBLE/ATTESTED

10. Has the impugned orders original/duly attested legible copy been filed?

LEGIBLE/ATTESTED

11. Have legible copies of the annexure duly attested been filed?

LEGIBLE/ATTESTED

12. Has the index of documents been filed and pagination done properly? *No*

13. Has the applicant exhausted all available remedies? *Yes*

14. Have the declaration as required by item 7 of Form-I been made? *No*

15. Have required number of envelops (file size) bearing full address of the respondents been filed? *No*

16. (a) Whether the reliefs sought for, arise out of single cause of action? *Yes*
 (b) Whether any interim relief is prayed for? *No*

17. In case an MA for condonation of delay is filed, is it supported by an affidavit of applicant? *No*

18. Whether this case can be heard by Single Bench? *No*

19. Any other point?

20. Result of the scrutiny with initial of the Scrutiny Clerk.

The application is in order and may be registered and listed before the Court for admission/orders on ;

(a) MA for joining U/R 4(5)(a)/4(5)(b)
 (b) MA U/R 6 of CAT Procedure Rules, 1987
 (c) PT u/s 25 under AT ACT
 (d) MA for condonation of Delay;

OR

31.5.200

The application has not been found in order in respect of item No(s) mentioned below;

(a) Item Nos.
 (b) Application is not on prescribed size of paper.
 (c) MA U/R 4(5)(a)/4(5)(b) has not been filed.
 (d) Application/counsel has not signed each page of the application/documents.
 (e) MA U/R 6 has not been filed.

The application might be returned to the applicant for rectification of the defects within 7 days.

SCRUTINY CLERK

SECTION OFFICER

JOINT REGISTRAR

COURT NO. *One* DATE *21.6.200*

16

In the Central Administrative Tribunal
Principal Bench, New Delhi

1664
OA No. /2000

In the matter of

G.S.Chaman

Applicant

Vs

UOI & anr

Respondents

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New Delhi

Dated : 31/5/2000

1. May please be advised on 2/6/2000 *Mehamer*
 2. ~~Postage~~ *Postage* ~~by~~ *by* envelopes will be given as of 2/6/2000 *Applicant*

आज दाखिल किया
 Fil d. day

31 MAY 2000

दाखिल नं. 11693
 उपरचिस्त्राप/Dy. Registrar

morning

Mehamer

31/5/2000

(1)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 1064 OF 2000

IN THE MATTER OF:

1. G.S. CHAMAN
S/o Late Shri Ganda Ram
R/o Flat No. A-4E, DDA Flats,
Munirka,
New Delhi-110 067.

.... APPLICANT
(IN PERSON)

V E R S U S

1. UNION OF INDIA

Through - Secretary,
Ministry of Home Affairs,
Government of India,
North Block,
New Delhi-110 001.

2. DIRECTOR,
Intelligence Bureau,
Ministry of Home Affairs,
Government of India,
North Block,
NEW DELHI-110 001.

.... RESPONDENTS

APPLICATION UNDER SECTION 19 OF
ADMINISTRATIVE TRIBUNAL ACT, 1985.

1. PARTICULARS OF THE ORDER AGAINST WHICH APPLICATION IS MADE:

As a follow up of Hon'ble Apex Court Judgement.
Respondent No. 2's Office, issued notification
No. 16/C III/99(1)3629 dated 28.12.99 (copy
placed at Annexure A-1) reviewing and giving
notional/deemed promotions of Section Officers

Contd... 2/-

...2...

to the Grade of Assistant Director (Non-Police) made during 1981-95. The applicant figures at Serial No. 15 of the notification. The date of his regular promotion as Assistant Director having been postponed from 23.06.1984 to 28.12.1983, the applicant is entitled to further notional/deemed promotion as Deputy Director and among the 143 officers figuring in the notification, he is the only officer who is eligible for promotion as Deputy Director. However, for reasons unknown to him, notional promotions have been restricted to the Grade of Assistant Director only. Even his representation (copy placed at Annexure A-2) on the subject has remained unresponded. The applicant is, thus, aggrieved by denial of notional promotions as Deputy Director w.e.f. 28.12.1993.

2. JURISDICTION:

The applicant declares that the subject matter in respect of which he seeks redressal is within the jurisdiction of the Hon'ble Tribunal.

3. LIMITATION:

The applicant declares that his O.A. is within the limitation as prescribed in Administrative Tribunal Act, 1985.

4. BRIEF FACTS OF THE CASE:

4.1 That the applicant who joined Intelligence Bureau as Assistant in July, 1964 was promoted to the Grade of Section Officer in March, 1972 on the

basis of Limited Departmental Examination held by UPSC

4.2 That due to litigation among certain Section Officers on the matter of seniority, regular DPCs for Section Officers' promotion to the next higher grade of Assistant Director (Non-Police) could not be held during 1981-83 and in the process, persons like the applicant suffered for no fault on their part. It also created shortage of officers at the level of Assistant Director due to which Department's working was suffering. Therefore, in 1983, a DPC was held to make ad-hoc promotions from Section Officer Grade to that of Assistant Director. In that the applicant got ad-hoc promotion as Assistant Director w.e.f. 12.05.1983, without any break it matured into regular promotion as Assistant Director w.e.f. 23.06.1984 which, vide notification has been postponed to 28.12.1983. The applicant got further promotion as Additional Deputy Director w.e.f. 09.10.1992 vide notification at Annexure A-3.

4.3 That as per Recruitment Rules for the grade of Deputy Director, 2 Posts (2½% of its cadre strength of 66) are earmarked for promotion of Additional Deputy Director/Assistant Director (Non-Police) to that Grade for which 7 years as Additional Deputy Director failing which 10 years as Additional Deputy Director and Assistant Director is the eligibility criteria.

4.4 That the Hon'ble CAT's Jodhpur Bench in C.M. Henri Vs. UOI ATR 1987 (1) CAT 107, held that ad-hoc service without break is deemed to be continued for eligibility for promotion to the next higher grade and that experience whether rendered by an ad-hoc appointee or by a regular appointee would not change in character, principle being that it is the experience in a particular post which really matters.

That the Hon'ble CAT's Chandigarh Bench, in Som Datt Sharma Vs. UOI ATR 1989 (1) CAT 525 and Dr. S.K. Sharma Vs. UOI ATR 1988 (1) CAT 422, held that though ad-hoc promotion by itself does not confer any right on the said appointee for regular promotion to such a post but when an ad-hoc appointee is eventually promoted regularly as or selected for such a post by the competent authority, such a promotion or selection would relate back to the date of ad-hoc promotion and benefit of continuous officiation would accrue to the promotees for the purpose of seniority or for eligibility for promotion to the next post.

Thus, the law was that ad-hoc service which matures into/is followed by regular service in the grade without break counts for eligibility for promotion to the next higher grade.

4.5 That following the law as established by the Hon'ble CAT cited in para 4.4 supra, the applicant put in 10 years of service as AD/ADD on

...5...

11.05.1993 and became eligible for consideration/
promotion as Deputy Director.

4.6 That para 4.1 of Guidelines on Departmental
Promotion Committees issued vide DoP & Trg.
OM No. 22011/5/86-Estt (D) dated 10.04.1989,
inter alia reads as under:-

"It is essential that the number of
vacancies in respect of which a panel
is to be prepared for a DPC should be
estimated as accurately as possible.
For this purpose, the vacancies to be
taken into account should be the clear
vacancies arising in a post/grade/service
due to death, retirement, resignation,
regular long term promotion/deputation
or from creation of additional posts
on long term."

4.7 That when the proposal for 1993 DPC was taken
up for promotion to the grade of Deputy Director,
both the posts of Deputy Director earmarked for
applicant's cadre were lying vacant. Further,
out of the 2 officers, Shri Sen Gupta and
Shri R. Ventatachari who were senior to the
applicant, the latter was due to retire on
31.08.1993. Therefore, following DoP & Trg
instructions as extracted in para 4.6 supra
for the 1993 DPC, there were 2 existing vacan-
cies and are going to fall vacant on 01.09.1993
due to retirement of Shri Venkatachari. Follow-
ing DoP & Trg. instructions on the subject

...6...

(para 6.1. of its CM dated 10.04.1989), for 3 vacancies, 10 officers, if eligible, should have been considered. However, only 4 officers were eligible - the 2 mentioned above, the applicant and Shri K.S. Iyer who was due to retire at the end of July, 1993. Mischieviously, names of only 2 officers mentioned above, were sent to the DPC for consideration. When the applicant came to know about the mischief, he submitted a representation which went by default in that the date of his promotion on ad-hoc basis was shown as 23.06.1984 in place of 12.05.1983 in the seniority list which falsely rendered him ineligible. On his pointing out this error, through another representation, he was informed that he had not completed 10 years as AD/ADD on regular basis. A copy of the 2 representations are placed at Annexure A-4 ~~(copy)~~. Even case law cited in the representations was not given any consideration and it was treated as irrelevant.

4.8 That on retirement of Shri Venkatachari mentioned supra on 31.08.1993, the applicant personally met the then DIB and explained how he was being denied promotion as Deputy Director. The DIB was kind enough to direct taking up the matter of the applicant's promotion and if there was any difficulty in taking up the matter for promotion on regular basis, to take it up ^{for ad hoc} ~~the~~ ^{promotion case of} matter. In his promotion on ad-hoc basis, the officers below took it as an affront to their Scheme of Things and instead of sending proposal

for applicant's promotion, a proposal for counting his ad-hoc service for seniority on his request was sent to the Ministry of Home Affairs with a negative recommendation and got it turned down at the level of a Desk Officer. When the DIB was informed about the mischief played on the applicant, he showed his annoyance and asked the Special DIB to take up the matter at his level which he did. A copy of his note is placed at Annexure A-5. However, ~~clamor~~ had been ^{done} by the previous mischief and the Ministry of Home Affairs promptly returned the proposal from the Special DIB inviting attention to their earlier note turning down the proposal of counting ad-hoc service towards seniority and adding that his service as AD and ADD fell short of 10 years. The applicant, thereafter, submitted a representation to the Union Home Minister, a copy of this representation is placed at Annexure A-6. It was not allowed to reach the Home Minister and it met the same fate as the earlier ones.

4.9 That thus, applicant's right due backed by case law as cited supra for promotion to the grade to Deputy Director was illegally but successfully blocked on the sole ground that his service as Assistant Director and Addl. Deputy Director on regular basis fell short of 10 years. The Hon'ble CAT's rulings on the

subject that ad-hoc service followed by regular service in the grade without break, counts for eligibility for promotion to the next grade, was treated as irrelevant and of no consequence.

4.10 That now that the date of his regular promotion as Assistant Director has been postponed from 23.06.1984 to due to which his case was treated as of non-eligibility to 28.12.1983, he completed 10 years as Assistant Director and Additional Deputy Director on regular basis on 27.12.1993 and he, thus, fulfilled all the eligibility conditions for promotion to the next grade of Deputy Director for which vacancy arising from Sri Venkatachari's retirement on 31.08.1993 was available till after the applicant's retirement. The applicant put in a formal representation also to DIB (Annexure A-2) and followed it up with a reminder to JD (E) (Annexure A-9), but these remained unresponsive to and seem to have been consigned to the waste paper basket. As regards his work, he has annexed to the O.A. at Annexure A-7, 3 communications on which he could lay his hand out of scores of others. These speak for themselves and indicate that his work was appreciated by different DIBs/ Addl. DIB and was advised to keep up the tempo. There was no adverse ACR. That therefore, not giving the applicant notional promotion as Deputy Director as follow up of the Hon'ble Apex Court Judgement despite

his representation is arbitrary, and betrays non-application of mind and is contemptuous of the Hon'ble Apex Court.

4.11 That as Additional Deputy Director, the applicant was actually holding an independent desk of a Deputy Director, earlier called as DD (BA) when Mr. Ganpati, I.P.C. was holding this desk. In addition, he was supervising B-4 Branch. No branch officer was given to him in B-6, B-7 and B-4 Branches. Unlike other Additional Deputy Directors who used to report to their Deputy Directors, the applicant was reporting to Joint Director (D) and he was issuing intelligence U.Os/reports which are not issued in Intelligence Bureau by an officer below Deputy Director level. In fact, concerned Deputy Directors are the main intelligence reporting officers and only some Additional U.Os depending upon importance of the matter are issued at a level higher than the Deputy Director.

In Chander Dutt Sharma Vs. UOI S.No. 240 of Swamy's Digest 1991, it was held that arrears are payable consequent on notional promotion. Accordingly, consequent upon his notional promotion as Deputy Director, he would be entitled to arrears of pay from 28.12.1993 to 30.04.1994 at the rate of Rs.5,300 - 45.75 = Rs.725/- per month plus other allowances.

4.12 That the Hon'ble Apex Court, in as reported in 1997 Apex Decisions SC 80, held that preparation and finalisation of the yearly panel, unless

duly certified by the appointing authority that no vacancy would arise or no suitable candidate was available, is mandatory.

That para 3.1 of the guidelines on DPCs issued by the DoP & Trg, vide its OM No. 22011/5/86-Estt (D) dated 10.04.1989 also contemplates holding of annual DPCs mandatorily except when either there is no vacancy or no eligible officer is available for consideration.

As mentioned supra, a vacancy of Deputy Director fell vacant w.e.f. 01.09.1993 with the retirement of Shri R. Venkatachary against which Special DIB sent a proposal for applicant's promotion on ad-hoc basis - ad-hoc because the department had firmly ruled despite case law to the contrary that 10 years eligibility service as AD and ADD was regular service and had refused to consider ad-hoc service from 12.05.1983 to 22.06.1984 without break towards eligibility for promotion. Now with preponing of the applicant's regular promotion from 23.06.1984 to 28.12.1993, he was available for consideration for national promotion as Deputy Director. To deny the applicant national promotion as Deputy Director, is thus, against the instructions on the subject which renders the said denial as illegal and arbitrary and is also contemptuous of the Hon'ble Apex Court.

4.13 That in N. Srinivasan Vs. UOI, OA 347/92, Madra, Swamy's digest 1994, the Hon'ble CAT's Madras Bench held that if on promotion, a person not

...11...

actual worked on the higher post, he is entitled to notional fixation of pay and full pensionary benefits of such notional pay. The pensionary benefits are pension which includes retirement gratuity, leave encashment etc.

4.14 That the pre-revised scale of Deputy Director being 5100-150-6150 and there being a rule that if one gets promotion as Deputy Director after putting in a minimum 18 years of gazetted service (Group A & B put together) his pay on notional promotion as Deputy Director would be fixed at not less than Rs.5,300/- per month. Accordingly, on getting notional promotion as Deputy Director, the applicant will be entitled to arrears of pay at the rate of Rs.725/- per month (Rs.5,300 - 4,575/- he was drawing as ADD) plus allowances. He will also be entitled to enhanced pension and including additional gratuity at the rate of Rs.725 x 16½ which comes to Rs.11,933/-. In addition, he will be entitled to additional leave encashment @ Rs.725/- x 8 = Rs.5,800/-.

4.15 That since as per Department of Pensions and Pensioners' Welfare OM No. 45/86/97-P & PW (A) Pt II dated 27.10.97 (Annexure A-10) as modified vide that Department's OM No. 45/10/98 P & PW (A) dated 17.12.98 (Annexure A-11) consolidated revised Pension as on 01.01.1996 shall not be less than 50% of the minimum of the revised pay scale as on 01.01.1996 of the post from which the officer retired and the minimum of the revised pay scale of a Deputy Director in Intelligence Bureau is Rs.16,400/-, the applicant's revised

basic pension on getting notional promotion as Deputy Director will be Rs.8,200/- per month as compared to Rs.6,000/- per month as at present. Thus, because of denial of the said promotion, the applicant is being denied the benefit of enhanced basic pension to the tune of Rs.2,200/- per month plus dearness relief thereon which is presently 38% on notional promotion as Deputy Director. Accordingly, as per rough estimate, the applicant would be entitled to arrears of pension to the tune of around Rs.1,50,000/- from January, 1996 to May, 2000 and his pension will stand enhanced by Rs.2,200/- per month plus dearness relief.

5. GROUND S:

- A. Because denial of the notional promotion to the applicant as Deputy Director is arbitrary.
- B. Because the said denial of notional promotion is the result of non-application of mind.
- C. Because the said denial of notional promotion amounts to denial of benefit of the Hon'ble Apex Court Judgement which necessitated issue of notification at Annexure A-1. It is also contemptuous of the Hon'ble Apex Court and is illegal.
- D. Because the said denial of notional promotion is against the law laid down by the Hon'ble Apex Court on mandatory nature of DPCs as well as instructions issued by the DoPT on the subject.

E. Because by the said denial of notional promotion the applicant is being paid less pension to the tune of Rs.2,200/- per month plus dearness relief thereon, which is recurring and continuous in nature. By a rough estimate he has already been paid less pension to the tune of Rs.1,50,000/- till May, 2000.

F. Because by the said denial of notional promotion, the applicant's entitlement to enhanced pension including additional gratuity to the tune of Rs.11,933/- stands denied to him.

G. Because by the said denial of notional promotion, the applicant's entitlement to additional leave encashment to the extent of Rs.5,800/- stands denied to him.

H. Because by the said denial, applicant's right to better livelihood is being affected.

I. Because by the said denial of notional promotion, the applicant's constitutional right to property has been affected.

6. DETAILS OF REMEDIES EXHAUSTED:
After receipt of copy of the notification at Annexure A-1, the applicant put in a formal representation to Respondent No.2, a copy of which is placed at Annexure A-2 followed it up with a reminder to J.D. (Establishment) Mr. A.B. Vohra (Annexure A-9). However, the representation and the reminder remained unresponded. The

applicant, therefore, declares that he has exhausted the remedies available to him for seeking redressal of his grievance before approaching the Hon'ble Tribunal.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING WITH ANY COURT:

The applicant declares that he has not previously filed any application, suit, writ or petition regarding the subject matter of the O.A. before any court or any other Bench of the CAT nor any such application, writ, petition or suit is pending before any of them.

8. RELIEF SOUGHT:

The Hon'ble Tribunal may be pleased to:-

- i) direct the Respondents to give notional promotion to the applicant as Deputy Director alongwith consequential benefits of revised basic pension, Gratuity, Leave encashment and arrears of pay.
- ii) issue any other order/direction considered appropriate in the matter.
- iii) grant heavy cost since a pensioner has been forced to take to litigation.

9. INTERIM RELIEF, IF ANY, PRAYED FOR:

No

10. NOT APPLICABLE.

... 15 ...

11.

PARTICULARS OF THE BANK DRAFT/ INDIAN POSTAL
ORDERS FILED IN RESPECT OF THE APPLICATION FEE:

- i) Postal Order No. & Date: 26052953 dt 30/5/2000
- ii) Amount of P.O. : Rs.50/-
- iii) Name of Issuing P.O. : JNU Old Campus New Delhi
- iv) Payable at : New Delhi 67

12.

LIST OF ENCLOSURES:

- i) Indian Postal Order for Rs.50/-.
- ii) Annexures A-1 to A-
- iii) Two file sized envelopes with addressed
of the Respondents written thereon.

NEW DELHI

DATED: 31.05.2000

M. Nehru
M. Nehru 31/5) 2000
APPLICANT
(IN PERSON)

VERIFICATION:

Verified at New Delhi on this 31st day of May, 2000 that the contents of the O.A. are true to the best of knowledge and belief of the applicant and that nothing has been concealed therein.

M. Nehru
M. Nehru 31/5) 2000
APPLICANT

No. 16/C-III/99(1)- 3629
 Intelligence Bureau
 (MINISTRY OF HOME AFFAIRS)
 Government of India

AM A-1 16

New Delhi; the

Dated: 27.10.1999
 28 OCT 1999

Consequent upon revision of the seniority list of Section Officers working in the Intelligence Bureau, vide IB Hrs. Memo. No. 8/Seniority (CC)/98(3) dated 18.06.98 in pursuance of the Judgements of CAT, Calcutta Bench and Supreme Court, the promotions of SOs to the grade of Assistant Director (Non-Police) effected during the period from 1981 to 1995 were reviewed by the UPSC. Accordingly, on the recommendations of UPSC contained in their letter No. F.1/24(19)/98-AP.I dated 15.04.99, the MHA have, vide their U.O. No. 2867/99/P.I dated 18.10.99, approved the notional/deemed promotion of the undermentioned Section Officers to the grade of Assistant Director (Non-Police) with effect from the dates shown against each and in the order indicated below, until further orders :-

SI. No.	Name of the Officers S/Shri	Date of Birth	Date of notional/ deemed promotion
01.	C.S. Hari	06.06.29	11.05.83
02.	L. Natarajan	15.12.27	11.05.83
03.	G.D. Kewlani	10.10.31	11.05.83
04.	T.R. Balagopal	26.10.27	11.05.83
05.	S.V. Galagali	04.03.27	11.05.83
06.	V. Lakshmanan	04.07.27	11.05.83
07.	K.S. Iyer	31.07.35	11.05.83
08.	S.N. Karkhanis	01.07.28	12.05.83
09.	K.M.R. Iyer	22.02.38	12.05.83
10.	H.B. Saxena	22.06.34	23.05.83
11.	S.N. Murty	01.07.31	24.05.83
12.	Yash Pal Jerath	01.12.25	30.06.83
13.	C.N. Krishnan	24.03.35	30.06.83
14.	S.P. Mullick (SC)	01.11.29	30.06.83
15.	G.S. Chaman (SC)	14.04.36	30.06.83
16.	Magan Chand Verma (SC)	15.09.30	28.12.83
17.	Mohinder Kumar	25.01.26	30.12.83
18.	S.N. Gupta	05.01.35	02.01.84
19.	Sarjit Singh	12.10.27	23.01.84
20.	P.R. Puri	22.07.28	23.06.84
21.	M.L. Luthra	31.10.26	23.06.84
22.	Kuldip Suri	14.10.27	01.11.84
23.	S.N. Bhatnagar	15.06.32	01.12.84
24.	B. Chibber	20.10.31	27.05.85
25.	B.N. Seth	20.08.31	29.05.85
26.	Rai J. Chandra	10.04.31	01.06.85
27.	K.P. Kapoor	09.03.30	01.06.85
28.	S.P. Punj	23.06.35	24.06.85

True copy
 M. S. Mehta
 Advocate

contd. 2/-

29.	C. Selvarajan	08.05.27	01.08.85
30.	J.N. Puri	01.04.29	01.08.85
31.	Ram Bhool Singh (SC)	09.02.31	01.08.85
32.	K.B. Marimuthu (SC)	15.06.30	01.08.85
33.	K. Venkataraman	20.05.38	31.01.86
34.	T.N. Gopalan	10.10.34	29.05.86
35.	M.S. Narayananurthy	03.06.36	29.05.86
36.	S.S. Chopra	12.06.35	30.06.86
37.	S.N. Mulgund	05.03.30	30.01.88
38.	G.S. Chabra	23.02.32	30.01.88
39.	P.L. Gupta	14.06.37	30.01.88
40.	B. Gupteshwara Rao	03.01.35	30.01.88
41.	S.C. Gupta	15.02.34	30.01.88
42.	J.L. Gomber	16.08.30	30.01.88
43.	N.S. Ahluwalia (Expired)	01.04.35	30.01.88
44.	I.J. Manchanda	15.09.40	30.01.88
45.	Rajinder Kumar	20.09.39	30.01.88
46.	K.L. Bansal	10.05.33	30.01.88
47.	K.L. Rai	06.11.31	30.01.88
48.	P.P. Parameswaran	29.10.39	30.01.88
49.	M.L. Banga	07.01.31	30.01.88
50.	S.K. Mittal (SC)	14.03.34	30.01.88
51.	Bhagwan Das (SC)	15.01.40	30.01.88
52.	R. Markandeyan (SC) (Expired)	01.07.38	30.01.88
53.	M.P. Nimi (SC)	02.06.35	30.01.88
54.	L.S. Pangtey (ST)	04.08.31	30.01.88
55.	B.B. Lal	07.12.34	30.01.88
56.	S.P. Awal	15.06.31	30.01.88
57.	Ramesh Chandra	22.01.35	30.01.88
58.	N.P. Ahuja (Expired)	01.01.39	30.01.88
59.	M.G. Matapurkar	19.08.32	30.01.88
60.	S.K. Sharda	01.09.39	30.01.88
61.	K.D. Beri	12.02.33	30.01.88
62.	M.M. Kapoor	28.11.36	24.08.88
63.	T.V.N. Nair	18.03.31	24.08.88
64.	T. Prakasam (Expired)	01.03.35	31.08.88
65.	P. Nagarathnam	02.08.33	05.09.88
66.	Mithan Lal (SC)	05.02.36	12.09.88
67.	B.N. Medak (ST) (Expired)	01.03.44	12.09.88
68.	Hukum Singh Yadav	09.10.39	31.10.88
69.	K.C. Mishra	21.01.47	30.08.89
70.	I.P. Bhatia	04.04.36	30.08.89
71.	J.S. Negi	15.10.47	30.08.89
72.	P.P. Nautiyal	05.07.45	30.08.89
73.	S.K. Sharma	30.12.36	30.08.89
74.	A. Madhavan Nair	04.04.34	30.08.89
75.	T.S. Negi	07.04.46	30.08.89
76.	A. Muthuswamy	07.01.49	29.12.89
77.	R. Hariharan	18.11.34	29.12.89
78.	R. Janakiraman	31.03.38	29.12.89
79.	Nathu Prasad (SC)	05.01.35	29.12.89
80.	R.P. Raju (SC)	04.08.37	29.12.89
81.	Ram Das (SC)	01.01.38	29.12.89
82.	V.P. Bhatia	02.01.39	29.12.89

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contd... 3/-

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83.	B.S. Kanwar	13.04.44	29.12.89
84.	V.K. Damodaran	02.05.33	29.12.89
85.	P. Damodaran	28.07.47	29.12.89
86.	T.R. Gulati	04.11.47	29.12.89
87.	R.C. Gandhi	21.01.47	29.12.89
88.	Hari Chand Guru	30.08.40	20.02.91
89.	S. Chandrasekharan	26.10.47	20.02.91
90.	K.K. Chandna	01.12.42	20.02.91
91.	P.L. Kher	04.06.42	21.02.91
92.	B.B. Lahari (SC)	08.02.42	22.02.91
93.	F.L. Bhrant (SC)	15.07.39	22.02.91
94.	F.C. Bhola (SC)	03.02.36	22.02.91
95.	S.K. Sablok	19.09.46	22.11.91
96.	P.K. Gopalakrishnan	01.06.39	22.11.91
97.	K.L. Kataria	19.12.45	22.11.91
98.	K. Surendran	15.06.48	22.11.91
99.	I.R. Gugnani	03.01.34	25.11.91
100.	R.N.R. Yadav	30.06.47	04.12.91
101.	V.P. Khurana	01.01.43	01.02.92
102.	S.L. Marimuthu (SC)	28.04.36	18.03.92
103.	R. Ravindran	04.10.47	11.11.92
104.	Harish Chandra	28.08.43	11.11.92
105.	R.C. Khurana	15.04.46	11.11.92
106.	B.K. Sidhra	14.09.48	11.11.92
107.	N.K. Mendiratta	14.11.47	11.11.92
108.	D.R. Pandey	25.12.46	11.11.92
109.	S.G. Pillai	16.01.51	12.11.92
110.	Devendra Nath	01.03.36	12.11.92
111.	Jai Dayal	10.12.46	13.11.92
112.	P.K. Bhattacharjee	28.05.48	04.12.92
113.	R.P. Srivastava	15.11.45	18.12.92
114.	S.K. Arora (Adhoc)	05.01.44	01.02.93
115.	K.D. Prabhakar	31.03.45	01.02.93
116.	Nihal Chand (SC)	02.10.37	15.02.93
117.	T.S.P. Iyer	03.06.39	02.07.93
118.	D.N. Chandel	17.03.46	14.09.93
119.	T.K. Nambiar	15.04.48	26.11.93
120.	Rama Nand Gupta	20.11.35	26.11.93
121.	P.V. Karunakaran (Adhoc)	10.02.46	26.11.93
122.	B.L. Dhar (Adhoc)	01.06.46	26.11.93
123.	S. Srinivasan (Adhoc)	12.04.48	26.11.93
124.	N.N. Tagore	17.03.34	30.11.93
125.	Uma Kant Shukla (Adhoc)	09.08.55	30.11.93
126.	R.C. Bakshi (Adhoc)	27.02.49	30.11.93
127.	P.V. Nair (Adhoc)	13.10.39	27.12.93
128.	S.P. Dhamija (Adhoc)	06.09.43	31.12.93
129.	Onkar Singh (Adhoc)	25.07.43	01.02.94
130.	Ramesh Chandra (SC) (Adhoc)	20.04.46	01.03.94
131.	Hari Singh (SC)	06.05.39	01.03.94
132.	Ram Prakash (SC)	05.06.38	30.03.94
133.	Tilak Raj Batra	04.06.43	21.11.94
134.	Banshi Dhar Singh	15.02.48	21.11.94
135.	M.R.K. Suryanarayana Rao	19.09.46	21.11.94

*True copy
Meharry
Advocate*

contd.. 4/-

136. Babu Ram Sharma	10.03.46	21.11.94
137. Surender Kumar Sharma	10.04.49	21.11.94
138. Sita Ram Singh	15.09.38	21.11.94
139. P.B. Pillai	18.10.48	27.01.95
140. S.L. Kapoor	20.03.43	03.01.96
141. Ravinder Mohan	07.03.53	03.01.96
142. S. Mahalingan Chandrasekhar	07.12.49	03.01.96
143. Jag Mohan Syal	12.09.38	03.01.96

2. On promotion, the inter-se-seniority of these officers in the grade of AD(NP) will be in the same order as indicated above.

3. The Officers who are posted at IB Hqrs. or had retired/superannuated from service from IB Hqrs. may exercise their option for fixation of their pay notionaly in the scale of pay of AD(NP) under Proviso of FR-22-I (a)(i), in pursuance of Fourth Pay Commission recommendations w.e.f. 01.01.86 and Fifth Pay Commission recommendations w.e.f. 01.01.96, wherever applicable, within one month from the date of issue of this notification and send the same to IB Hqrs.

4. Whereas, officers who are posted at SIBx or had retired/superannuated from service from SIBx may exercise their option for fixation of their pay in the manner as mentioned in Para-3 above, within one month from the date of issue of this notification, to their respective SIBx.

5. The actual financial benefits of promotion as Assistant Director (Non-Police) will be admissible from the date of actual assumption of charge of the post of Assistant Director (Non-Police) by the officers concerned.

6. This supersedes all earlier Notifications issued in the matter in respect of above mentioned officers, so far.

Sd/-

(A.B. VOHRA)

JOINT DIRECTOR

Copy to :-

1. The Pay & Accounts Officer, IB (MHA), New Delhi.
2. The Regional Pay & Accounts Officer, IB (MHA), Shillong.
3. MHA (Under Secretary - P.I), New Delhi w.r.t. their U.O. No. 2867/99/P.I dated 18.10.99.
4. The Under Secretary, U.P.S.C., Dholpur House, New Delhi w.r.t. their letter No. F.I/24(19)/98-AP.I dated 15.04.99.
5. ✓ Officers concerned.

Sh: Tai Dangal
AD(CR), PB 1th

(((())))
(M.M. FRASAD)
JOINT ASSISTANT DIRECTOR

My copy
Mehanna
Adas Clark

sentd 5/-

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Am A-3

No.16/C-3/91(2)- 3821
INTELLIGENCE BUREAU
(Ministry of Home Affairs)
Government of India.

New Delhi, the 4 Nov 1992.

NOTIFICATION

The President is pleased to appoint
Shri G.S. Chaman, Assistant Director(Non-Police)
in the Intelligence Bureau as Additional Deputy
Director at IB Hqrs., New Delhi on promotion with
effect from the afternoon of October 9, 1992 until
further orders.

2. Consequently, Shri G.S. Chaman relinquished charge
of the post of Assistant Director(Non-Police)
and assumed charge of the post of Additional Deputy
Director at IB Hqrs., New Delhi in the afternoon of
October 9, 1992.

←T.S. Negi
(T.S. Negi)
Assistant Director

Copy to :-

1. The P&AO, IB (MHA), New Delhi.
2. The Secretary, UPSC, Dholpur House, New Delhi
w.r.t. their letter No.F1/24(15)/92:AU-2 dated
14.9.1992.
3. The US (Pers. I), MHA, New Delhi w.r.t. their U.O.
No.2548/92/Pers. I dated 8.10.92.
4. Shri G.S. Chaman, ADD (B-2), IB Hqrs., New Delhi.

True copy
Abhaya
Adiakat

sent on 11.11.88 Regd. Post Ad. 28
Registration No. 0705 Deep pasted over by

10/11/88

From : G.S.Chaman
Addl. Deputy Director (Retd.), IB
Flat No. A-4E, DDA Flats
Munirka, New Delhi-67.

Ann A2

To :

Shri Shyamal Dutta
Director, Intelligence Bureau
Ministry of Home Affairs, Govt. of India
North Block, New Delhi.

Subject: Notional/Deemed Promotion of Asstt.
Directors (NP)
Arbitrary Denial of Notional/Deemed Promotion
as Deputy Director

Ref: IB Notification No. 16/C-III/99(1)-3629
dt. 27.10.99 on the above subject.

Sir,

Respectfully I submit as under : -

i) The notional/deemed promotions, consequent upon Hon'ble Apex Court Judgement, have been notified only upto the grade of Assistant Director, whereas the same should have been notified upto the grade of Deputy Director for reasons best known to authorities who have done so. One of the reasons could be their wrong notion that none of those who figure in this notification was eligible for promotion as Deputy Director. If so, it was blatantly motivated because a cursory glance at S.No.15 of the notification would have revealed that among the whole lot, I was eligible for promotion as Dy. Director w.e.f. 28.12.1993 and since a vacancy was also available since 1.9.93 for considering my name for promotion, not to do so is unexplainable.

ii) To recapitulate the sequence of events, because of Court cases concerning seniority, DPC for regular promotion of Section officers to the Grade of Assistant Director could not be held during 1981-83. Meanwhile work of the organisation was suffering for shortage of officers at Assistant Director level. To meet the situation after convening a departmental DPC without association of UPSC, IB made adhoc promotions to this Grade and accordingly I took

*This copy
belongs
to
Advocate*

contd...p/2

over as Assistant Director on 12.5.1983 on adhoc basis which matured into regular promotion w.e.f. 23.6.84. Thereafter I got promotion as Addl. Dy. Director w.e.f. 9.10.92.

iii) Vide the notification under reference, my regular promotion as Asstt. Director stands advanced on 28.12.1983 from 23.6.84. Accordingly I completed 10 years eligibility period, prescribed in the RR as AD and ADD for promotion as Dy. Director on 28.12.1993 and therefore, the DPC which considered the national promotion to the grade of AD(NP) should have considered my case for further promotion as Dy. Director.

iv) Since I had the opportunity of working under you as Asstt. Director (Security), you are well aware about my work, conduct, honestly and sincerity to any task entrusted to me and for that you won't have to ask from anyone else. You also know that since my promotion as ADD in Oct. 1992, I held independent charge as ADD supervising B6, B7 and B4 Branches, reporting directly to JD(D) and issuing Intelligence UOs which in IB are not issued below the Dy. Director level. Thus for all practical purposes, I was handling that desk at DD's level while drawing salary as ADD.

v) When Mr. R. Venkatachari Superannuated on 31.8.93 and a vacancy in the grade of Dy. Director became available w.e.f. 1.9.93, the then Director, IB, Shri Vaidya, instructed the Establishment to take up my case for promotion as Dy. Director on ad hoc basis since then I was a few months short of 10 years eligibility period as AD and ADD on regular basis although I had put in more than 10 years as AD and ADD if my adhoc service from 12.5.83 to 22.6.84 was taken into account. Eligibility period for promotion is prescribed so that the person concerned gains on job experience for that period to move upwards and experience gained on adhoc basis does not change in colours and is, in no way, different from that on regular promotion. However, Mr. T. S. Negi, then AD(G), flouted and sabotaged the DIB's orders and instead of moving a proposal for promotion, sent a routine reference to MHA for counting my adhoc service towards seniority. That also with a negative recommendation. Since I had only a few months to retire, perhaps, he was playing for time for me to retire. MHA at the Desk Officer level did not agree to the

*True copy
Akshay
Advocate*

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proposal. DIB had clearly and in person asked DD(E)/JD(E) to move for my adhoc promotion and not for seniority. The words promotion and seniority, though related, are poles apart in meaning and therefore, there was no chance of any confusion. Further DIB had instructed that the proposal for promotion should be made in consultation with me but I was never consulted despite a few visits by me to the Establishment.

When the DIB came to know about flouting his orders, he expressed his displeasure in Durbar to DD(E)/JD(E) and asked Shri S.D.Tripathi, S.p. Director to take up the matter of my promotion, at his level, which the SDT did as per his u/o note dt. However, harm had already been done and MHA, refering to their earlier note, returned the file to I.B. citing shortage in eligibility period.

vi) A few months shortage in eligibility period of 10 years as AD and ADD on regular basis although counting adhoc service as AD from 12.5.83 to 22.6.84, I had completed more than 10 years, was thus made to operate to deny me well earned promotion as Dy. Director. However same rigidity was not shown in the case of Col Sundaram who had put in only 6 years as AD (1988-94) against 10 years eligibility period for promotion as DD, M/s Sharda, Manchanda and Rajender. In their cases, shortage in eligibility was happily dispensed with and relaxed for considerations best known to the authorities.

vii) Now that my notional/deemed promotion on regular basis has been advanced to 28.12.83 from 23.6.84, I became eligible for promotion as DD from 28.12.93 and a vacancy of DD was available till my retirement on 30.4.94, I request that my case for notional/deemed promotion as DD w.e.f. 28.12.93 may be considered and needful in that direction done expeditiously,

Vide Deptt. of Pensions and Pensioners Welfare, Govt. of India Order No.45/10/98 P&PW(A) dt. 17.12.98, that Department's earlier OM No.45/86/97-PhPW(A) Pt. III Dt.10.2.98 stands modified to the extent that consolidated full pension shall not be less than 50% of the minimum of the revised scale of pay introduced w.e.f. 1.1.96 for the post last held by the concerned person. According to these orders, after I get notional/deemed promotion as DD w.e.f. 28.12.93 or so, my consolidated minimum

True copy
M. Khan

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minimum pension would work out to Rs.8200/- from the present Rs.6000/- a month and that, alongwith DA element that is a big help to a pensioner and is my rightful due.

In view of the submissions supra, I once again request that instructions be issued for expeditiously processing and finalising my case for notional/deemed promotion as Dy. Director and consequential revision of pension as a follow up of the Apex Court judgement.

With profound regards,

Yours faithfully,

Dated Nov 10, 1999

Rehman
(G.S. CHAMAN) 10/11/1999

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Abhang
Hector

आर.पी. 54/R.P.-54

भारतीय डाक विभाग

DEPARTMENT OF POSTS, INDIA

प्राप्ति स्वीकृति / ACKNOWLEDGEMENT

रजिस्ट्री-पत्र पारंपर प्राप्त हुआ

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* Insured for Rupees _____

पाने वाले _____

Addressed to Shri Shyamal Dutta, DIB(MHA) 601

North Block, New Delhi

को/on _____

वितरण डाक्टर की तारीख-मोहर

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हस्ताक्षर और नाम/Signature and Name

15/11/1999

The Director
INTELLIGENCE BUREAU (MHA)
North Block
New Delhi

Confidential

Sub: Denial of promotion from the grade of Addl. Deputy Director to the grade of Deputy Director

Sir,

Respectfully I submit as under:-

(i) For promotion to the grade of Deputy Director from the grade of ADD (Non-police), the prescribed eligibility period is 7 years as ADD or 10 years as ADD and AD (Non-police). I have completed the latter condition on May 11, 1993. I was promoted as Assistant Director w.e.f. May 12, 1983 on adhoc/officiating basis (Annexure A - Sl no. 23). The adhoc promotion was not of my choice. Because of litigation among some other persons, regular DPC could not be held for 3 years (1981 - 1983) because of which official work was suffering for non-availability of the officers. The department, therefore, in public interest, constituted a DPC for adhoc promotions from the S.O's grade and made ad-hoc appointments as Assistant Directors (Non-Police) against substantive posts.

(ii) My first petition intimating my eligibility for consideration to the grade of Deputy Director went by default because of clerical error in the seniority list wherein both the date of my adhoc promotion (12.5.1983) and regular promotion (23.6.1984) were published as 23.6.1984. When I pointed out this error through my petition dated August 4 (Annexure B), I have been informed by AD(G) vide his memo dated August 25 (Annexure C) that since I have not completed 7 years regular service as ADD or 10 years combined regular service as ADD and AD, I am not eligible for promotion to the grade of Dy Director. AD(G) in para 4 of his memo has tried to confuse the matters by bringing in totally irrelevant issue of seniority which is over 3 years old and is not relevant now. After Shri R.N. Sengupta, I am the senior most officer in the cadre and in fact the only officer eligible and available to avail the promotion to the grade of Deputy Director. No other officer from the cadre is eligible. Therefore bringing in the issue of seniority appears to be aimed at derailing the whole issue of eligibility of promotion by confusing the matters.

(iii) The Supreme Court of India, the Central Administrative Tribunal and the High Courts have, in a large number of cases, laid down the law on the subject and have held that adhoc service in a grade followed by regular service without break has to be counted towards eligibility for promotion to the next grade. It goes without saying that eligibility period is

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prescribed for promotion to the next grade to enable the officer concerned to gain experience for that period to shoulder higher responsibility and the courts view is that experience gained on adhoc appointment is in no way different from the experience gained on regular appointment. Experience is experience. A rose will smell a rose by whatever name it may be called. To make the law on this point clear, I quote below three cases (on which I could lay my hands) which do not leave even an idea of doubt about counting of adhoc service towards eligibility for promotion. My case fits in on all-fours with the law pronounced by the higher judiciary.

CAT-Chandigarh

Som Dat Sharma
Vs.

Union of India and others
ATR 1989(1) CAT-525
Adhoc officiation

Adhoc officiation followed by regular service, in the absence of specific provision to the contrary, the length of service from the date of appointment to a post on adhoc basis should be taken into consideration for the purpose of either seniority in that post or for eligibility for promotion to the next post. There can be no doubt that when a person is appointed to a post against a permanent vacancy on probation, his appointment is on a regular basis but when a person is appointed to a post on a purely temporary or on adhoc basis, the appointment is not on regular basis. However if such an adhoc appointment is followed by regular appointment, the general principal, in the absence of specific provision to the contrary, is that the length of service from the date of appointment to a post should be taken into consideration for the purpose of either seniority in the post or eligibility in the higher post. Further held that though adhoc promotion by itself does not confer any right on the said promotee for regular promotion to such a post but when such an adhoc promotee is eventually promoted regularly or selected for such a post by the competent authority, such a promotion on selection would relate back to the date of adhoc appointment.

CAT-Chandigarh

Dr. S.K. Sharma
Vs.
Union of India
ATR 1988(1)
CAT-422
Adhoc Service

Adhoc service rendered to the post of professor (senior scale from 1969 to 1973 - service regularised subsequently without any break - benefit of adhoc service for the purpose of seniority/promotion cannot be denied. Further held that benefit of long period of service would accrue to the promotees who have continuously officiated against long term vacancies and long-term vacancies would be those that are not for a few days or a few months or are otherwise adventitious. Irrespective of whether the posts were temporary or permanent, so long as the promotion was against long term or substantive vacancies and not against short term or fortuitous vacancies, the benefit of continuous officiation would accrue to promotees for the purpose of seniority or for eligibility for promotion to the next post.

My copy
Habang 2
Advocate

Ann A-3²)
Army AMG/City Control

Jodhpur
C.M. Henry
Vs.

Union of India
ATR-1987(1)CAT-107
Adhoc promotion

Held adhoc service without break is deemed to be continued service for promotion to the next higher grade.

The arguement of the (Government) Counsel that what was intended by the impugned circular was experience as a store keeper on the regular basis would seem counter to the respondents case when the basic principle on the basis of which a particular experience is laid down as an eligibility qualification is kept in view. This basic principle being that it is the experience in a particular post which really matters. Experience whether rendered by an adhoc appointee or a regular appointee would not change in character.

(iv) In view of the foregoing, I seek permission to appear in your next darbar to beseech your indulgence against the injustice being meted out to me at the time of my approaching retirement (30.4.1994)

Yours faithfully

(G.S. Chaman)
Addl. Deputy Director

True copy
Chaman
Archived

Qm A5

INTELLIGENCE BUREAU
(MINISTRY OF HOME AFFAIRS)

SUBJECT: PROPOSAL FOR PROMOTION OF SHRI G.S.CHAMAN, ADDITIONAL DEPUTY DIRECTOR, TO THE RANK OF DEPUTY DIRECTOR IN THE I.B. ON AD-HOC BASIS.

There are, at present, 66 sanctioned posts of Deputy Director in the IB. As per the provision of the Recruitment Rules (copy placed in the file), out of 66 sanctioned posts, 2½% (2 posts) are to be filled by promotion from Additional Deputy Director with 7 years regular service in the grade, failing which ADDs with a combined regular service of 10 years in the grade of ADDs and AD(NP) of IB Secretariat Service, failing which by transfer on deputation.

2. Of the 2 sanctioned posts of Deputy Director, one has been lying vacant since Sept. 1, 1991 following the retirement of Shri R. Venkatachari as DD on August 31, 1990. The present proposal is for promotion of Shri G.S. Chaman, ADD to the rank of Deputy Director in the IB on ad-hoc basis.

3. Shri Chaman joined IB as directly recruitment Assistant on March 3, 1958. He was promoted to the rank of Section Officer on March 27, 1972 and Assistant Director on ad-hoc basis w.e.f. May 12, 1983. His ad-hoc service was regularised w.e.f. June 23, 1984. Subsequently, he was promoted to the rank of Additional Deputy Director on Oct. 9, 1992. He is due for retirement on April 30, 1994. Thus, Shri Chaman has rendered more than 35 years of meritorious and dedicated service (including more than 10 years Class-I service) in the IB.

4. The post of Deputy Director in the IB is an important middle management level post. Shri Chaman with long years and expertise in departmental security matters as also his deep understanding and analysis of present day internal security problems is eminently suited to be elevated to the rank of Deputy Director in the IB. It is also relevant to mention that Shri Chaman belongs to the reserved category and it would, therefore, be in the interest of social justice to extend ad-hoc promotion to Shri Chaman as Deputy Director in the IB. This will act as a morale booster for Ministerial Cadre officers and also send right signals that Government cares for the upliftment of officers from deprived and underprivileged sections of the society.

5. In view of the position explained above, MHA is requested to kindly approve the promotion of Shri G.S. Chaman to the rank of Deputy Director in the IB on ad-hoc basis till his retirement from the IB on April 30, 1994 on superannuation pension.

6. This issues with the approval of the Director, Intelligence Bureau.

SDT 15-XII-93
(Dr. S.D. Trivedi)
Special Director

MHA (Shri V.K. Jain, Special Secretary/ISP)
DIB UO No. 1/Prom(G)/92(10)- Dated: 15, 1993.

*True copy
rehears
Addl. Comttee*

From

G.S. Chaman
Addl. Deputy Director
IB Hqrs. New Delhi

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Am A/C (contd.)

Am Ab

To

The Hon'ble Union Home Minister
Government of India
New Delhi

Respected Sir,

Respectfully I submit as under:

(i) I am working as Addl. Deputy Director in IB, promoted to this grade on October 9, 1992 A.N. I worked as Assistant Director (N.P), IB, from 12.5.1983 to October 9, 1992, including about one year's ad-hoc service which, of course, was not of my choice. Due to litigation among some officers, regular DPC could not be held from 1981 to 1983 for promotion of SOs. Since the government work was suffering for want of officers, ad-hoc promotions were made as Assistant Director w.e.f. May 11 & 12, 1983. While reservation was duly provided in ad-hoc promotions, I was denied reservation when 16 notional regular promotions were made in 1987-88 effective from 1983.

(ii) I am seniormost among the Addl. Deputy Director's and the only one who has rendered more than 10 years continuous service as ADD/AD (Non police).

(iii) In December 1993, Director, Intelligence Bureau, recommended my case for adhoc promotion as Deputy Director and the proposal was issued under the signatures of the Special DIB. It was somewhat on the following lines:

'2 and a half per cent posts (2 posts) of Deputy Director in IB have been allocated to officers of the grade of Addl. Deputy Director/Assistant Director (Non police) with 10 years regular service. One post is lying vacant from 1.9.1993 when Shri. Venkatachari retired. Shri G.S. Chaman has rendered 35 years of meritorious and dedicated service. He has rendered more than 10 years class-I service as Addl Deputy Director/AD (Non-police). He had vast experience as Assistant Director in the field of Security and is now handling an important internal security desk. It is high time that Shri. G.S. Chaman is promoted to the grade of Deputy Director. He belongs to SC community and promoting him on adhoc basis till his retirement on 30.4. 1994 would send right signals that the government cares for the officers from the backward communities'.

(iv) About the DIB's proposal of my promotion, I have been informed by Assistant Director (G) IB Hqrs. as under:

"MHA have carefully considered the proposal but it is regretted that it is not possible to agree to the proposal for adhoc promotion of Shri G.S. Chaman as Deputy Director in the IB"

*This copy
belongs
to
SAC*

39
~~Non-Official~~

The speed with which the proposal was disposed of in the MHA belies the statement of its careful consideration and it appears that the proposal was not placed before your kindself for consideration with whatever the officers' recommendations. In terms of relevant service rules and as per accepted practice and procedure in the Government of India, proposals/recommendations for promotion/demotion/removal from service or reduction in rank had to be disposed of by the Competent Authority - your Hon. kindself in this case and not the Ministry or its officials. No ground has been mentioned in the communication for not agreeing to the DIB's proposal. It is a non-speaking communication. However my discussions in the Home Ministry revealed that the only ground for rejecting the proposal was that I had not completed 10 years regular service in terms of the recruitment rules. The notings on the file would, however, reveal what considerations weighed in the minds of the concerned officers in the MHA to reject the proposal.

(v) Sir, as regards the requirement of 10 years regular service for promotion to the grade of DD in terms of Recruitment Rules, I draw attention to the law laid by the Courts of competent jurisdiction, the rules and promotions earlier made in the IB on ad-hoc basis. The judicial dicta laid down by the Principal Bench of the Central Administrative Tribunal is that recruitment rules cannot be applied in adhoc appointments (on promotion) as by the very nature they are short term appointments (Dr. Girish Tyagi Vs. Union of India - ATR 1992 (1) CAT-47) In this case, ad-hoc appointment on promotion of another person was set aside only on the consideration that his case had not been recommended by the Head of the Department whereas petitioner's case had such a recommendation. In Ms. Sujata Oberoy Vs. Union of India (ATR 1987 (1) CAT-178), it was held that adhoc appointment by its very nature is a stop gap arrangement made for a variety of reasons, particularly, when a regular incumbent is not available or a process of regular selection involves time and the exigency of service are such that the posts cannot be kept unmanned meanwhile. The CAT added that an appointment made under statutory rules like recruitment rules would be temporary appointment (and not ad-hoc). Again in S. Shahul Hameed Vs. Secretary Ministry of Industry, New Delhi and another, the thrust of the argument, which was also accepted by the Madras Bench of the CAT, and the ratio decidendi of the case was that statutory rules governing promotions, NBR etc. do not apply in ad-hoc promotions.. The tribunal added that ad-hoc appointments are made outside the rules.

(vi) The Fundamental Rule 22 1(a)(I) as inserted by the Government of India, Department of Personnel & Training vide notification No. 1/10/89-Estt(Pay-I) dated 30/8/1984 (extract enclosed), has differently treated fixation of pay on promotion on regular and ad-hoc basis and have denied ad-hoc appointees the option to have the pay refixed from the date of next increment. It also talks of promotion/appointment on promotion on substantive, temporary, officiating capacity under relevant recruitment rules and has excluded ad-hoc promotion under such rules. This exactly fits in with the judicial dicta.

(vii) I feel aggrieved that different yardsticks are being applied in the matter of adhoc promotions from individual to individual. Only a few years back Mr. George, S.N. Sharma, Mr.

*True copy
Subhan
Adm. - T.*

307

H.C. Singh and 2 other officers with only 2 to 3 years service as Assistant Director were given ad-hoc promotions as compared to 10 years service rendered by me as Addl. Deputy Director and Assistant Director. These officers availed the ad-hoc promotion for 2 years or more, the ad-hoc promotions being extended from time to time. I personally know some cases in the IB where ad-hoc higher promotions were given practically every year. I cite the case of Shri. L.D. Kumar who was given 3 promotions in 3 years (JIO-I to DCIO) on ad-hoc basis and Shri. Y.N. Roy who was given 2 promotions (ACIO-II to DCIO) during the same period. Sir, in all these cases, the eligibility condition of minimum service required for promotion as per the recruitment rules was neither applied nor insisted upon. It is only in my case, for reasons not known to me, that the requirement of 10 years regular service is being insisted upon. The golden principle and the Government of India's accepted practice and procedure is to follow the past precedents and not to give a new interpretation to a thing of the same nature. Certainly cases which square on all fours cannot be given individual interpretation with the change of officers processing the case. To my mind, there is only one reason as to why my case is being treated differently and that is the fact of my belonging to SC community. None of those mentioned by me who got ad-hoc promotions belonged to the reserve community. If it is so, it is very sad that even after 46/47 years of independence, such treatment continues to be meted out.

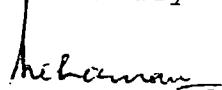
(viii) Since my promotion as Addl. Deputy Director, I am actually working independently on a Deputy Director's desk and reporting to the Joint Director, in the process issuing Intelligence reports as other Deputy Directors do. Sir, you have been seeing Intelligence UOs issued by me. You were also very kind and spoke appreciatively about me while releasing my book "Law of Disciplinary Enquiries" in November 1985. Sir, non-approval of my promotion as Deputy Director just for a couple of months adds to my grievances because, as far as work is concerned, I am considered fit for independently handling the desk of a Deputy Director but when a proposal for actual promotion as Deputy Director on ad-hoc basis is made by the DIB, it is not approved.

(ix) Sir, as the things stand, including the judicial dicta, and past precedents for adhoc promotion, there are only 5 requirements for ad-hoc promotion:-

- (a) the proposal should have the approval of the Head of the Department and normally according to seniority
- (b) it should be for a short time duration,
- (c) it is necessitated by non-availability of the eligible officer
- (d) the time factor does not permit processing the case for regular promotion. In my case, all these essentials are 100% fulfilled,
- (e) ad-hoc appointment is made outside the rules.

I, therefore, humbly request that the case of my promotion may kindly be considered sympathetically. I shall also be grateful if I am granted an audience by your kindself to enable me to explain the whole case.

Yours faithfully


(G.S. CHAMAN) 31/12/94

At 31/12/94 True copy
Chamani
Advocate

CONFIDENTIAL

303B
30
No. 10(3)/SI/83
INTELLIGENCE BUREAU
(MINISTRY OF HOME AFFAIRS)
GOVERNMENT OF INDIA

R. K. Kapoor,
Director.



Amr A-2 (Sally)

New Delhi, the March 29, 1984

My dear Chaman,

This is to record my appreciation
of the good work done by you in the preparation
of IB's Security Manual. The Manual should be
of considerable help to various I.B. officers in
observing the security precautions.

Yours sincerely,


(R. K. Kapoor)

Shri G.S. Chaman,
Assistant Director,
Intelligence Bureau,
Ministry of Home Affairs,
New Delhi:

True copy
Mehtab
ADM cat

31
Am A-7(Cally) Contd CONFIDENTIAL
No. DDB/ACR/92- 857
INTELLIGENCE BUREAU
(Ministry of Home Affairs)
Government of India

New Delhi, dt. April 28, 1992

MEMORANDUM

Your note on 'Kisan movement in India and recent activities of important Kisan Organisations' dated 20.4.92 has been appreciated by JD and the Additional Director. The relevant extract is as below:-

"A good round up prepared by AD"

Sd/- JD

and

"I agree"

Sd/- Addl. Director

2. I would also like to place on record my appreciation for the good round up on the farmers prepared by you. I am sure you will keep up this tempo.

B.S. Sial 27/4/92
(B.S. Sial)
Deputy Director

Shri G.S. Chaman,
AD(B6/B7)

*Truly yours
B.S. Sial
AD(B6/B7)*

Ann A-7(Catty) contd

CONFIDENTIAL

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No. DDB/ACR/92- 856
INTELLIGENCE BUREAU
(Ministry of Home Affairs)
Government of India

New Delhi, dt. April 28, 1992

MEMORANDUM

Your note dated Feb. 20, 1992 on "Seminar on GATT held in Bangalore on Feb. 8, 1992" was put up to the DIB who has appreciated it. His remarks are reproduced below:-

"A good analysis by AD"

2. This is for your information and record. I am sure you will continue to maintain the same zeal and efficiency in work.

B.S. Sial 27/4/92
(B.S. Sial)
Deputy Director

Shri G.S. Chaman,
AD(B6/B7)

*True copy
Sohena*

G. S. CHAMAN
ADVOCATE
High Court, Central Admin. Tribunal

33
No. A-4E, D.D.A. FLATS,
MUNIRKA, NEW DELHI-110067
TEL. : 663324

UFC
Am A-8

616

7/4/2002

Dear Shri Vohra,

I invite your attention to IB Hqs notification dt 28/10/99 issued from file No 16/C III/99 (1) notifying notional/deemed promotions as Assistant Director in pursuance to Hon'ble Apex Court judgement.

In the list of such notional/deemed promotees, I was the only Assistant Director eligible for consideration for promotion to the grade of Deputy Director against the vacancy, which fell due on 1/9/93 with the retirement of Shri Venkatachari on 31/8/93. That vacancy remained unfilled up till my retirement. I, therefore, submitted a representation dated 10/11/99 to the DIB requesting for notional/deemed promotion as Deputy Director wef 23/12/93 and enhancement in my pension. Although more than 4 months have elapsed, I am yet to hear in the matter.

Could you please look in to the matter and let me have IB's response to my representation.

With regards

Shri A.B. Vohra
Joint Director (E)
IB Hqs, North Block
New Delhi.

Yours sincerely

G.S.Chaman) 7/4/2002

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mehaney

BEFORE CAT, PRINCIPAL BENCH

NEW DELHI

OA No. 1064/2000

IN RE :

**Shri G.S. Chaman Applicant
(in person)**

vs

U.O.I. & Ors. Respondent

* * * * *

I N D E X

Sl. No. Material being filed Page No.

01. Counter Reply to OA 1064/2000 1 to 11

02. Annexure 'R' :
Memo dated 21.06.2000

At : New Delhi.

Dated : 28/5/26

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भारतीय दूरध्वाक
 INDIA POST

IN
((BEH) HIGH COURT Encl.1 BPP. 6000
Speed Post Recd. No: EE 000035665 IN
NAME: SH. G.B.CHAMAN ADV.,
CITY: DELHI . 110047
From: JRV SINGH.
P-Stamp Rs. 0
AMT: 20.00/ Date: 390N/ 11/10/2000 14:25 (L)

Filed by
R. V. Sinha
Assistant Central Govt.
Standing Counsel
Counsel for Respondents
Ch. No. 5408541
Patiala House Courts,
New Delhi.

BEFORE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

OA NO. 1064 OF 2000

Shri G.S. Chaman Applicant
(In person)

Vs

U.O.I. & Ors. Respondents
(Through: Shri R.V. Sinha,
ACGSC)

"COUNTER REPLY TO O.A. 1064/2000 ON BEHALF OF
THE RESPONDENTS"

MOST RESPECTFULLY SHOWETH :

1. That the representation/grievances of the applicant is already under consideration of the replying respondent in consultation with the relevant departments/UPSC and the applicant has been given an interim reply vide respondents Memo dated 21.06.2000. Thus, the O.A. is premature and filed in hurry and therefore not maintainable.

2. That the applicant has not approached this Hon'ble Tribunal with clean hands and on this ground as well the instant O.A. is not maintainable.

Assistant Director
Intelligence Bureau
(Ministry of Home Affairs)
Government of India
New Delhi

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BACK GROUND NOTE

Shri G.S. Chaman joined IB as directly recruited Assistant on March 3, 1958. He was promoted to the rank of Section Officer on March 27, 1972 and Assistant Director on adhoc basis with effect from May 12, 1983. His adhoc services were regularised with effect from June 23, 1984. Later on, he was promoted to the rank of Additional Deputy Director (ADD) on October 9, 1992. He retired on superannuation with effect from April 30, 1994 in the rank of ADD. Shri Chaman has been requesting since 1993 for his promotion to the rank of Deputy Director based on the total service rendered by him in the rank of adhoc AD/AD/ADD. As per recruitment rules for the post of Deputy Director in the IB, 2 posts (2-1/2% of its cadre strength of 66) are earmarked for promotion of ADD/AD(NP) to that Grade (i.e. DD), for which 7 years as ADD failing which 10 years service as ADD and AD taken together is the eligibility criteria. Since, Shri Chaman had not completed 10 years of service as AD/ADD on regular basis, he was not eligible for promotion to the post of Deputy Director. Earlier, he had filed an OA No.980/90 in CAT Principal Bench, Delhi for counting his adhoc service for the purpose of assigning seniority to him in the grade of Assistant Director. However, the Court dismissed his OA citing 'no merit' in his case. However, after his promotion as

Assistant Director
Intelligence Bureau
(Ministry of Home Affairs)
Government of India
New Delhi

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ADD in 1992, he requested in 1993 that a proposal for counting his adhoc service for promotion may be taken up with the MHA. On our taking up the matter with MHA, the MHA turned down the same as his service as AD and ADD put together fell short of 10 years (as required in the Recruitment Rules) which rendered him ineligible for promotion to the rank of Deputy Director.

Now, consequent upon revision of seniority list of Section Officer in pursuance of the judgements of CAT/Calcutta Bench and Supreme Court, the promotions of Section Officers to the grade of Assistant Director/Non-Police were reviewed by the UPSC and dates of notional/deemed promotion of Section Officer to the grade of Assistant Director/NP were assigned to them vide Departments notification No.16/C-III/99(1)-3629 dated 28.10.1999. The date of notional/deemed promotion in respect of Shri G.S. Chaman has been shown as 28.12.1983. Shri G.S. Chaman vide his representation dated 10.11.1999 had, therefore, requested for his notional/deemed promotion as DD.

A number of representations have been received from working and retired officers against the criteria of determining the dates of notional/deemed promotion. The entire matter of calculating the notional/deemed promotion is under review and is likely to take 2/3 months time to arrive at the final decision in consultations with MHA/DOPT/UPSC. It is, therefore, that we gave him an interim reply vide our Memo No.1/Prom(G)/98(1)-2279 dated 21.06.2000 (Annexure R) informing him that the dates of notional/deemed

5 *8*

promotion is under revision and his request will be examined once the seniority list of AD/NP is finalised after the dates of notional/deemed promotions are finally arrived at.

PARAWISE REPLY:

(1) A number of representations from the working and retired officers have been received against the criteria of calculating the dates of notional/deemed promotions. As such, the matter is under re-consideration/review and a fresh Seniority list of Assistant Director/Non-Police will be issued after these representations are dealt with/settled. As the matter is still under examination, the case involving a whole period extending 15 years i.e. from 1981-1995, the representation of the applicant was duly examined and replied to on 21.6.2000 informing the position to the Applicant. Further action regarding his notional promotion to the rank of Deputy Director could be taken up only when the seniority list of Assistant Director/NP, which is under revision, is finalised.

2. Since the applicant has not exhausted the remedies, the OA may please be dismissed at the preliminary stage. However, the delay in replying on the part of the Department is regretted. The matter being a voluminous exercise is still under examination in the Department.

3. Needs no reply.

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4. Brief facts of the case.

PARA 4.1 - Shri G.S. Chaman joined IB as directly recruited Assistant on March 3, 1958. He was promoted to the rank of Section Officer on March 27, 1972.

PARA 4.2 - The applicant was given adhoc promotion on 12.05.83 and he was given regular promotion with effect from 23.6.1984 which implies that he can claim for his service as AD with effect from 23.6.84 only and not from his date of adhoc appointment as correctly ruled by the CAT Principal Bench, New Delhi. Now, after preponing of his date of notional/deemed promotion to the rank of Assistant Director with effect from 28.12.83 vide the Department's Notification dated 28.10.99, his case for promotion to the rank of Addl. Deputy Director and Deputy Director would be taken up after finalisation of seniority list of AD/NP on the basis of the Department's Notification dated 28.10.99, if this date (28.12.83) is confirmed after the completion of ongoing reviews.

PARA 4.3 - Matter of records, hence needs no reply.

PARA 4.4 - Earlier, when Shri Chaman, the applicant had challenged his case in this Hon'ble Tribunal, for counting the period of adhoc appointment as Assistant Director towards seniority, the Hon'ble CAT, Delhi vide its judgement dated 30.08.1991 pronounced on the O.A. No.980/90 filed by the applicant, had opined that the Officiation of the applicant on the post of Assistant

Additional Director
Intelligence Bureau
(Ministry of Home Affairs)
Government of India
New Delhi

Director on adhoc basis cannot be taken into account for his seniority.

As regards the two case laws quoted by the Applicant, as per the opinion expressed by the Department of Personnel and Training, Government of India, the judgement announced in a particular case is applicable only to the parties concerned and cannot be made universally applicable unless and until orders to that effect are issued by the Govt. of India. Besides, the judgements pronounced and quoted by the Applicant in respect of Group 'C' employees cannot be made applicable to Group 'A' employees without the consent of the Administrative Ministry, DP&T and Ministry of Law. It may be stated that all these issues have already been deliberated at length by the Principal Bench of the Central Administrative Tribunal New Delhi and the CAT Delhi has pronounced its judgement on 30.8.1991 in OA 980/90 dismissing the petition of Shri G.S. Chaman, the Applicant. The Ministry of Home Affairs have also opined that his adhoc service as Assistant Director cannot be taken into account for his seniority and there is no question of referring to judgements of other Courts when the Hon'ble CAT, Delhi had already given its own judgement in the matter.

However, since the Applicant is claiming his case for promotion with reference to IB Notification dated 28.10.99 (not 28.12.99 as mentioned by Applicant), the question of adhoc service raised by the applicant is not relevant here.

UO
JK

PARA 4.5 - As explained in Para 4.4 above, Shri Chaman, the Applicant was not eligible for consideration for promotion as Deputy Director, for his not satisfying the requisite qualifying service.

PARA 4.6 - Being matter of records, needs no reply.

PARA 4.7 - As stated in para 4.4. above, since the applicant did not fulfil the eligibility criteria for promotion to the rank of Deputy Director, his case for promotion to the rank of Deputy Director was not taken up. When he represented, the Department had sought the advice of the Administrative Ministry i.e. Ministry of Home Affairs (MHA), citing the case law quoted by the Applicant. However, MHA did not agree to the promotion of Shri Chaman to the rank of Deputy Director stating that the adhoc service rendered by him as AD cannot be counted for promotion as specifically judged by this Hon'ble Tribunal.

PARA 4.8. - The motives attributed by the Applicant on the Department are baseless. As explained in para 4.2 above, the representation of Shri Chaman was referred to the MHA without any bias. The MHA, however, decided that in view of the judgement of CAT Delhi, there is no merit in the representation of the Applicant.

PARA 4.9. - The Applicant was ineligible for promotion to the rank of Deputy Director. The position is already explained in Para 4.4, 4.7 and 4.8 above.

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PARA 4.10 - The Notification dated 28.10.1999 vide which the date of Notional /deemed promotion of the Applicant had been preponed includes the name of 142 other Officers also. The entire issue is being re-examined as representations from many officers have been received. As and when the matter is finally resolved, taking into consideration the representations received and all implications thereto, and fresh seniority list of AD/NP is finalised and issued by the Department, the request of the Applicant will be re-examined with reference to rules on the subject. The position was intimated to the applicant vide the Department's Memorandum No.1/Prom(G)/98(1)-2279 dated 21.06.2000 in reply to his representations dated 10.11.1999 and 07.04.2000. Thus, it is reiterated that the instant O.A. is prematured and not maintainable.

7

PARA 4.11 - The disclosures made by the Applicant regarding nature of duties performed by him in the Department is objectionable as the Intelligence Bureau is a Secret Organisation and the Applicant has given details regarding the setup in which he worked which should have been avoided by him.

8

As regards his contention that he was performing the work earlier dealt by Deputy Director, it is submitted that there is no hard and fast division regarding the desk/group to be headed by ADD or DD. His request for arrears on notional promotion can only be looked into only after the entire issue of grant of

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notional promotion is re-examined and the seniority list in the grade of Assistant Director/Non-Police is finalised and prepared.

PARA 4.12 - Para 4.2 and 4.4 above may please be seen as regards not considering the applicant's earlier request for notional promotion to Deputy Director that can only be considered after the seniority list in the rank of AD/NP is finalised.

PARA 4.13 - The applicant's request would be examined with reference to rules on the subject after finalisation of seniority list of Assistant Director/NP in the IB.

PARAs 4.14 & 4.15 - In view of the submissions made here in above, the contents of these para need no further reply/clarification. The same may please be treated as reply to these paras as well as the same are not being repeated for sake of brevity.

PARA 5 = REPLY TO GROUNDS

The Applicant has been informed that seniority list of AD/NP is under revision and further action would be taken up when that seniority list is finalised. So, there is no question of denial of notional promotion to the Applicant. Thus, various grounds taken by the applicant in the corresponding paras are misleading, misconceived and wrong and hence

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denied." The O.A. is without any merit and deserves to be dismissed with exemplary cost against the applicant and in favour of the replying respondents.

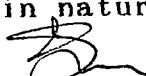
PARA 6 - REPLY ON REMEDIES

Annexure A-9 is not linked with OA. Perhaps, it is Annexure A-8. The Applicant was informed vide the Department's letter dated 21.06.2000 that seniority list of AD/NP is under revision and that further action in the matter would be taken up when that seniority list is finalised. Thus the instant O.A. is prematured and for nothing but misuse of process of law.

PARA 7 - No reply for want of knowledge.

PARA 8 - In view of the submissions made herein above, it is most respectfully prayed that this Hon'ble Tribunal may graciously be pleased to dismiss the instant OA with exemplary cost against the applicant and in favour of the replying respondents to meet the ends of justice.

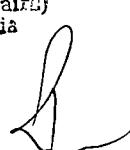
PARAS 9 TO 12 : Being formal in nature, need no reply.


FOR & ON BEHALF OF THE RESPONDENTS

At : New Delhi
Dated : 14.9.2002

14.9.2002
Central Bureau
(Ministry of Home Affairs)
Government of India
New Delhi

Through :


(R.V. Sinha)
ACGSC
COUNSEL FOR THE RESPONDENTS

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2

VERIFICATION :

I, Harish Chandra, working as Assistant Director, Intelligence Bureau (Ministry of Home Affairs), Govt. of India, under the replying respondents do hereby verify that the contents of this Counter reply are true and correct to my knowledge derived from the records of the replying respondents and legal advice received and believed to be true and correct and nothing material has been concealed therefrom.

Verified on this 14th day of September, 2000.



FOR & ON BEHALF OF THE RESPONDENTS

Harish Chandra
Intelligence Bureau
(Ministry of Home Affairs)
Government of India
New Delhi

Annexure - A
~~30/6/2~~
No. 1/Prom(G)/98(1)-2279
INTELLIGENCE BUREAU
(MINISTRY OF HOME AFFAIRS)
GOVERNMENT OF INDIA

NEW DELHI, THE 21/6/2

MEMORANDUM

With reference to his representation dated 07.04.2000 regarding notional promotion of Additional Deputy Directors to the rank of Deputy Director, Shri G.S. Chaman is hereby informed that seniority list of Assistant Director/Non-Police is under revision. Further action would be taken up when that seniority list is finalised.

*M/s/ 21/6
25/6*

B
20/6/2000
(HARISH CHANDRA)
ASSISTANT DIRECTOR

To

de

Shri G.S. Chaman,
Additional Deputy Director (Retd.),
Flat No. A-4E, DDA Flats,
Munirka, New Delhi = 110067

Attested

SP/MS/2
(4/9/2000)

Intelligence Bureau,
(M.G. 2000), 2000, T-2,
(M.H.A.), Govt. of India,
New Delhi.

In The Central Administrative Tribunal

(iii/12) Principal Bench, New Delhi I

In the matter of

M.S. Channa

vs

NOI. I am

OA No. 1064/2022

Applicant

Complainant

Respondent.

Index

S. No.

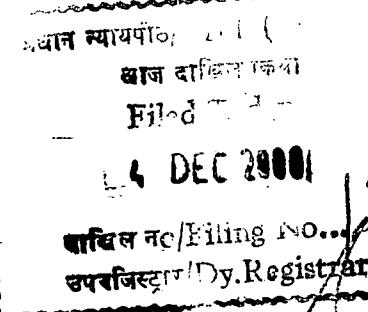
Particulars

Page No.

1

Rejoinder to the MS No 2/3
Counter reply

1-6



New Delhi

dt 29/11/2022

Recd by
B.R.
29/11/2022

APR
29/11/2022

Hehamey
Applicant
29/11/2022

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH

NEW DELHI

O.A. No. 1064 of 2000

IN THE MATTER OF:

G.S. CHAMAN

... APPLICANT
(In person)

V E R S U S

UNION OF INDIA & ORS.

... RESPONDENTS

APPLICANT'S REJOINDER TO THE COUNTER-
REPLY BY THE RESPONDENT NO.2.

.....

MOST RESPECTFULLY SHOWETH:

1. That save as expressly and specifically admitted, each and every averment in the counter-reply stands denied and refuted.
2. That the Respondent No.1, Union of India has not filed any counter-reply. Respondent No.2's reply does not indicate if it could be treated to have been on behalf of both the respondents. In the case of non-filing of counter-reply by a Respondent, a Division Bench of the Gauhati Bench of the Hon'ble CAT has held as reported ^{that} in 1993(2) SLJ (CAT) 258, legal presumption is that Respondent has no objection to the grant of prayer.

The Hon'ble Apex Court in Union of India Vs. Godfray Phillips India Ltd. (1985) 4 SCC 371 held that a Bench of the Court can not over-rule

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...2...

or disapprove a decision of another Bench of equal number of Judges- in case of disagreement, matter should be referred to a larger Bench. Accordingly, the applicant prays that the Hon'ble Tribunal may give him benefit of the legal presumption of non-filing of the counter-reply by the Union of India.

COMMENTS ON PRELIMINARY OBJECTIONS:

1. It is denied that the O.A. is premature and filed in a hurry or that it is not maintainable. The applicant submitted representation to the Respondent No.2 on 10.11.1999 through Registered Acknowledgement Due post - registration No. 0705 of that date. It was received in the office of Respondent No.2 on 15.11.1999. This representation was following by reminder to JD (Est.) on 07.04.2000. When he failed to get any response to these representations, the applicant filed the O.A. on 31.05.2000 after duly complying with the provisions of Section 20 of the Administrative Tribubal Act, 1985. The interim reply mentioned in the counter is dated June 21, 2000 and was in response to the reminder. Thus, the interim reply was issued after the O.A. had been filed. The O.A. is, therefore, not premature and is maintainable.
2. Denied. Vague and unexplained comments. The applicant has not made any false averments in the O.A. nor any instance thereof has been pointed out.

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BACKGROUND NOTE:

Matter of record except the following:

1) The applicant never requested that case for counting his ad-hoc service for seniority be taken up with Ministry of Home Affairs. The DIB had approved, as mentioned in the O.A. that applicant's case for promotion should be taken up. The DIB had also directed that the proposal for promotion should be made out in consultation with the applicant. With ulterior motive to deny him well-earned promotion, without ~~expressly~~ consulting the applicant, a routine proposal was sent to Ministry of Home Affairs for counting of his ad-hoc service for seniority - not for promotion as said in the counter-reply, while specifically opposing it. Thus, DIB's orders were flouted. Naturally, Ministry of Home Affairs did not agree. When disobedience of his orders by the Establishment was brought to the DIB's notice, he showed annoyance and asked special DIB to take up the matter at his level. Copy of his proposal is annexed as Annexure A-5 to the O.A.

As regards other averments, the applicant has no comments except that his position in the seniority will remain unchanged. No senior ~~was in~~ ^{was in} position of No junior from Serial No. 16 to 34 was eligible when DD's post became available.

PARAWISE COMMENTS:

1. No comments are called for.

...4...

2. Denied. As explained, all available remedies were exhausted before filing the O.A. Showing ignorance with the provisions of Administrative Tribunal Act and on that basis, praying for dismissal of the O.A. is nothing but laughable.

3. No comments are called for.

4.1 The applicant joined as directly recruited Assistant in July, 1964 and not on 03.03.1958.

4.2 Since eligibility period for promotion is prescribed so that the officer gains experience for that period, ad-hoc service in a grade followed by regular appointment to that grade counts for eligibility for promotion as held in a number of cases because experience gained in a post in ad-hoc capacity does not, in any way, vary from that gained on regular appointment in that grade. No comments on other averments in this para.

4.3 No comments are called for.

4.4 An attempt at confusing matters. Case for counting ad-hoc service for seniority is totally different from counting ad-hoc service for eligibility for promotion. The seniority case had gone by default since applicant's counsel could not say a single word in final argument. He remained mum. As regards comments on case law, the opinion of the Department of Personnel & Training cannot over-rule the Hon'ble Apex Court.

Sd/ (11)

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The Hon'ble Apex Court has held that all those similarly placed with the petitioner in a case should be given the benefit of the court's decision in that matter and that Government should not expect each and every employee to knock at the court's doors to get similar benefit. Moreover, ratio of a case does not change depending on classes or grade. Ratio applies equally whether the persons involved are from Group 'C' or Group 'A'.

4.5 Denied. He was eligible as explained supra.

4.6 No comments are called for.

4.7 Denied. Comments supra refer.

4.8 Denied. Comments supra are reiterated.

4.9 Denied. Comments supra are reiterated.

4.10 No comments are called for.

4.11 Denied. Only the bearer knows where the shoe pinches. His retiral benefits were seriously affected by more than Rs.2,200/- per month in pension, gratuity and other matters. As regards IB's functioning, in facts on the ground confirm what the applicant said in the O.A.

4.12 Denied. Averments supra are reiterated.

4.13 to 4.15. No comments are called for.

5. 6. Denied.

7. No comments are called for.

8. Denied. A far fetched prayer. Finalisation of seniority of a few scores of officers does not need years. Only Will to do the job in time

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is needed. Respondent No.2 has already taken a year in the matter.

P R A Y E R:

In view of the submissions supra, the Hon'ble Tribunal may be pleased to direct the Respondent No.2 to :

- a) finalise the seniority list of Assistant Directors (Non-Police) after notional promotions within a period of 4 to 6 weeks and place its copy on the case file.
- b) finalise notional promotion to the next grade of Dy. Director in further 8 weeks time and place a copy of the orders issued in the matter on case file.

NEW DELHI

DATED: 29.11.2000

Chamman
(G.S. CHAMAN)

APPLICANT

29/11/2000

VERIFICATION:

Verified at New Delhi on this 29th day of November, 2000 that the averments in the Rejoinder are true and correct according to the knowledge and belief of the applicant and that nothing has been concealed therein.

Chamman
(G.S. CHAMAN)
APPLICANT

29/11/2000