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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.1332 of 2000

New Delhi, this the 12th day of February, 2002

HON'BLE MR. JUSTICE ASHOK AGARWAL, CHAIRMAN
HON'BLE MR. S.R.ADIGE, VICE-CHAIRMAN (A)

1. Shri Alok Saxena
At present working as
Director of Postal Services
Nagpur.
2. Shri Jitendra Gupta
At present working as
Asstt. Director General (MPP)
Department of Posts, Dak Bhawan
New Delhi.
3. Shri V.K.Tiwari
At present working as
Director of Postal Services
Allahabad.
4. Smt. Anju Nigam
At present working as
Joint Director, Postal Staff College
Ghaziabad (U.P).
5. Shri R.K.B. Singh
At present working as
Director of Postal Services
Itanagar
Arunachal Pradesh

... Applicants

(By Senior Advocate Shri B.N.Singhvi)

V E R S U S

1. Union of India through
The Secretary
Ministry of Communications
Department of Posts
Dak Bhawan, New Delhi-110001.
 2. The Director General
Department of Posts
Ministry of Communications
Dak Bhawan
New Delhi.
 3. Shri M.Sampath
At present on deputation to
Department of Telecommunications.
 4. P.D.Tshering
At present on deputation to
DGS&D, New Delhi.
 5. Shri Rajendra Kumar Kashyap,
Posted as DPS (R)
New Delhi.
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6. Smt. Manju Pandey,
At present Posted on deputation to
Ministry of Defence,
New Delhi.
7. Shri D.V. Mahesh
working as DPS Kurnool.
8. Shri Dibakar Sarkar
At present posted on deputation to
Delhi Development Authority
New Delhi. ... Respondents

(By Shri S.K. Gupta, Advocate)

ORDER (ORAL)

S.R. Adige:-

Applicants impugn respondents' order dated 7.1.2000 (Annexure-I) and seek fresh consideration by a review DPC to consider 12 vacancies of the earlier years i.e. 1997-98 as separate from the 7 vacancies of the later years namely 1998-99 and to make fresh selections. Consequential benefits have also been prayed for.

2. Applicants belong to the Indian Postal Service Group "A". Applicants 3 and 4 are 1988 batch Officers, while applicants No. 1, 2 and 5 are 1989 batch Officers. They joined as Junior Time Scale officers and were promoted to Senior Time Scale on completion of 4 years of service. They were due for further promotion to Junior Administrative Grade (Rs. 12000-16500) upon completion of 8 years of service of which 5 years' service was to be in the Senior Time Scale.

3. Pleadings reveal that a DPC was convened on 24.9.97 to consider promotions to 23 vacancies in Junior Administrative Grade for the period 1997-98. Out of those 23 vacancies, 11 were filled up, while 12 remained

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vacant, because some of the 1988 batch officers including applicants No.3 and 4 were not found to have completed their requisite qualifying service to make them eligible for promotion. Applicants 3 and 4 together with other 1998 batch officers filed OA before the Tribunal against their non-consideration, and we were ~~now~~ informed that the same are the subject matter of ~~the~~ two writ petitions in Delhi High Court. It is further the case of applicants No.3 and 4 that they have completed the requisite qualifying period of service by January, 1998, and in any case all the applicants contend that they have completed the requisite qualifying years of service on 31.3.98.

4. The next DPC was held by the respondents on 11.2.99, in which the 12 unfilled vacancies of 1997-98 were carried forward and added to the 8 vacancies occurring in 1998-99, making 20 vacancies in all. Against these 20 vacancies, persons junior to the applicants were also considered, and as some of them had a better record of service than the applicants, and promotions were to be made on selection ^{basis,} where those graded as Outstanding stole a march over those graded as Very Good, those graded as Outstanding superseded the applicants, vide impugned order dated 7.1.2000.

5. The basic grievance of the applicants is that the 12 unfilled vacancies of 1997-98 should not have been added to the 8 vacancies occurring in 1998-99, and had the 12 vacancies of 1997-98 been ^{being} treated separately, the zone of consideration would have been smaller and their juniors would not have superseded them in promotion to Junior Administrative Grade.

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6. We have heard Shri B.N.Singhvi, the learned Senior Counsel for the applicants and Shri S.K.Gupta, the learned counsel for the respondents.

7. Shri Singhvi has drawn our attention to Hon'ble Supreme Court ruling in **Union of India & others v. N.R.Banerjee and others**, (1997) 9 SCC 287 wherein while referring to DOP&T OM dated 10.4.1989, it has been held that yearwise panels have to be prepared and finalised unless duly certified by the appointing authority that no vacancy would arise and no suitable candidate was available. In other words, clubbing of vacancies of different years is not permissible. In the present case, it is not in doubt that the 12 unfilled vacancies of the year 1997-98 were added to the 8 vacancies that arose in 1998-99, and the DPC which met on 11.2.99 made recommendations in regard to 20 vacancies, thereby enlarging the zone of consideration.

8. In this connection paragraph 7 of another ruling of the Hon'ble Supreme Court in the case of **Vinod Kumar Sangal v. Union of India and others**, (1995) 4 SCC 246 is extremely relevant and is reproduced below:-

7. In view of the aforesaid explanation that has been offered by the respondents for non-holding of the DPC during the period the reorganisation of the Department was under process may be justified. But when the DPC met in 1985 was it not required to make the selections on yearly basis for the vacancies of each particular year? The office memorandum dated 24.12.1980 clearly postulates that where the DPC is unable to meet at regular intervals for reasons beyond control, the first DPC that meets thereafter shall determine the actual number of regular vacancies that arose in each

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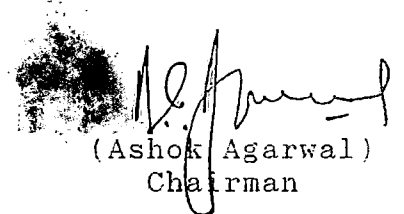
of the previous year/years and the actual number of regular vacancies proposed to be filled in the current year separately and consider in respect of each of the years those officers only who would be within the field of choice with reference to the vacancies of each year starting with the earliest year onwards and prepare a selection list for each of the years starting with the earliest year onwards and on that basis prepare a consolidated select list. From the affidavit of A.K.Bhandari, Director, GSI dated 23.3.1995, filed on behalf of the respondents, it appears that one regular vacancy occurred in the year 1980 which was filled by ad hoc appointment of the appellant and the next single vacancy occurred in 1982 which was also filled up on ad hoc basis and that three vacancies occurred in the year 1983 which were also filled up on ad hoc basis. It has also been stated in the said affidavit that on 22.12.1984 the Central Region got allotment of seven vacancies of Senior Technical Assistant (Drilling)- 6 promotion and one direct recruit- on account of regionalisation of Group 'C' cadre and that for making selection for 6 posts to be filled by promotion the DPC met on 15.1.1985 and made selection for all 6 promotional vacancies."

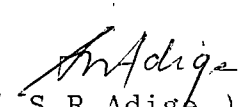
9. As the action of the respondents in clubbing the vacancies of the year 1997-98 with those of the year 1998-99, and making promotions on the basis of the vacancies so clubbed vide impugned order dated 7.1.2000, is violative of DOP&T circular dated 10.4.1989, and also of the Hon'ble Supreme Court's rulings in N.R.Banerjee's case (supra) and V.K.Sangal's case (supra), the impugned order dated 7.1.2000 cannot be sustained in law.

10. The OA, therefore, succeeds and is allowed to the extent that the impugned order dated 7.1.2000 is quashed and set aside. Respondents are directed to pass fresh orders in accordance with the rules, instructions and judicial pronouncements on the subject after holding a review DPC. These directions shall be implemented within a period of four months from the date of receipt of a copy of this order. Meanwhile, in the public

interest till such time as fresh orders are passed pursuant to these directions, the incumbents promoted vide impugned order dated 7.1.2000 shall continue undisturbed.

11. OA is disposed of in the aforesaid terms. No costs.

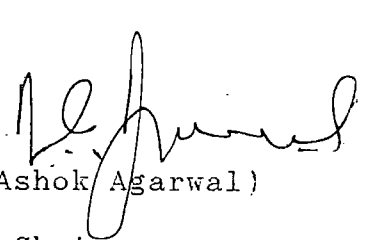

(Ashok Agarwal)
Chairman

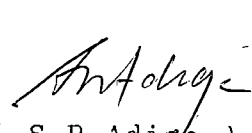

(S.R. Adige)
Vice Chairman (A)

/sns/

14.3.2002

12. After the above orders dated 12.2.2002 were dictated in open court the OA was relisted on 7.3.2002^{for} obtaining certain clarifications from both parties in the light of the statement contained in the OA that claims of two of the applicants for eligibility for promotion in the DPC held on 24.9.97 was pending before Delhi High Court. In the light of the clarification obtained, our orders dated 12.2.2002⁷ will stand.


(Ashok Agarwal)
Chairman


(S.R. Adige)

Vice Chairman(A)

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