

6.2.2002

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7.  
PH OA 1963/2000  
MA 1109/2001 With  
OA 2685/2000  
MA 628/2001

Present:- Sh A.K.Behra, counsel for applicants in OA  
1963/2001.  
None for the applicant in OA 2685/2000.  
Sh.M.K.Gaur, proxy counsel of Shri R.P.Agarwal  
counsel for respondents.

List on 7.2.2002. Interim order, if any, to  
continue till then.

h  
(Shanker Raju)  
Member (J)

*m.p.s*  
(M.P.Singh)  
Member (A)

Pl. complete in OA  
Reply to MA not filed.  
P.ti case

Serial No. 16

07-2-202

OA 1963/2000  
MA 1109/2001

with

OA 2685/2000  
MA 628/2001

(21)

Present: Sh. A. K. Salera, Ed. Counsel for the  
applicants.

Sh. Mukund, Mrs. & Sh. R. P. Aggarwal,  
Ed. Counsel for the respondents.

At the request of the Ed. Procy Council  
for the respondents, date on 20-2-2002 as part  
hereof.

h  
(Shankar Rao)

M(D)

M. P. Singh  
(M. P. Singh)

M(A)

Answer 31

07-6-2002

OA 1963/2000  
MA 533/2001  
MA 1109/2001

ceiling

OA 2685/2000  
OA 688/2001

Present: Ms. Neeta Maestre, Mysdt sh. B.S.  
Maestre, Ad. Counsel for applicant  
in OA 2685/2000.

Mr. Kalyan, Mysdt sh. A.I.C. Belgaum  
Ad. Counsel for applicant in OA 1963/2000  
Sh. R.P. Aggarwal, Ad. Counsel  
for third respondents.

Respondent No. 10 (Third respondent)  
in person in OA 1963/2000.

On the Torkut report of all  
the parties, list on 09-7-2002 as  
particular.

h.c.  
(Chancery Room)  
M(D)

aff  
(M. P. Binsle)  
M(A)

PH.O.A. No.1963/2000  
MA No.533/2001  
MA No.1100/2001

WITH

O.A. No.2685/2000

O.A. No.688/2001

15.7.2002

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Present : Shri A.K. Behra, learned counsel for applicant in OA No.1963/2000 and OA No.688/2001

Shri B.S. Maine, learned counsel for applicant in OA NO.2685/2000

Shri R.P. Aggarwal, learned counsel for official respondents in all OAs.

Shri Rajinder Rai, Private Respondent No.8

Arguments heard in part.

Shri R.P. Aggarwal, learned counsel for official respondents and Shri Rajinder Rai, Private Respondent NO.8 have concluded their arguments. Shri B.S. Maine, learned counsel for the applicant in OA NO.2685/2001 is agreed with the arguments advanced by official respondents as well as private respondent No.8. Shri A.K. Behra, learned counsel for applicants will address on rejoinder on the next date of hearing List OA No.1963/2000 and OA No.2685/2001 on 16.7.2002 as Part-heard.

In so far as the OA No.688/2001 is concerned, the issue is different to OA No.1963/2000 and OA No.2685/2001 and, therefore, OA No.688/2001 is separated from the aforesaid OAs. Registry is directed to list OA No.688/2001 on 26.8.2002.

*S. Raju*  
( Shanker Raju )

Member (J)

*M.P. Singh*  
( M.P. Singh )

Member (J)

/ravi/

Item No.13

PH.O.A. No.1963/2000  
MA No.533/2001  
MA No.1100/2001

WITH

O.A. No.2685/2000

15.7.2002

Present : Shri A.K. Behra, learned counsel for applicant in OA No.1963/2000 and OA No.688/2001

Shri B.S. Mainee, learned counsel for applicant in OA No.2685/2000

Shri R.P. Aggarwal, learned counsel for official respondents in all OAs.

Shri A.K. Behra, learned counsel for private respondent in OA No.2685/2000

Sh. Rajender Rai, P.W. & in persona

Arguments heard in part.

Shri B.S. Mainee, learned counsel in OA No.2685/2000 concluded his arguments.

List on 17.7.2002 at 2.00 PM as part-heard for further arguments by official respondents and private respondent in OA No.2685/2002.

(Shanker Raju)  
Member (J)

(M.P. Singh)  
Member (J)

ravi/

Item No.13

PHQ.O.A. No.1963/2000  
MA No.533/2001  
MA No.1100/2001

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WITH

O.A. No.2685/2000  
M.A. No.628/2001

17.7.2002

Present : Shri A.K. Behra, learned counsel for applicant in OA No.1963/2000 and OA No.688/2001

Shri B.S. Mainee, learned counsel for applicant in OA NO.2685/2000

Shri R.P. Aggarwal, learned counsel for official respondents in all OAs.

Shri A.K. Behra, learned counsel for private respondent in OA No.2685/2000

Shri Rajinder Rai, Private Respondent No.8 in OA No.1963/2000

We have heard both learned counsel for the parties.

For the reasons to be recorded separately by the common order, we quash and set aside the seniority list dated 11.7.2000 and the respondents are directed to put the applicants to show-cause notice and after considering all their points and thereafter in accordance with rules and instructions re-caste the seniority list within a period of six months from the date of receipt of a copy of this order.

Both OAs are disposed of accordingly. No costs.

( Shanker Raju )  
Member (J)

( M.P. Singh )  
Member (J)

/raviv/

(Nb)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

1. OA No.1963/2000  
2. OA No.2685/2000

New Delhi this the 17th day of July, 2002.

HON'BLE MR. M.P. SINGH, MEMBER (ADMNV)  
HON'BLE MR. SHANKER RAJU, MEMBER (JUDICIAL)

OA No.1963/2000

1. Y.S.R. Murthy, S/o Sh. Y.S. Narayana,  
R/o 810, Asia House, K.G. Marg,  
K.G. Marg, New Delhi.

2. S.K. Rao, S/o late Sh. S.K. Rao,  
R/o 335, Laxmibai Nagar, New Delhi.

3. Devpreet A. Singh,  
w/o Sh. Amanjeet Singh,  
R/o N-9, Akash Bharti Apartment,  
Patparganj, Delhi. -Applicants

(By Advocate Shri A.K. Behera)

-Versus-

1. Union of India through  
the Secretary, Ministry of  
Information & Broadcasting,  
Shastri Bhawan,  
New Delhi.

2. Union Public Service Commission  
through the Secretary,  
Dholpur House, New Delhi.

3. The Secretary,  
Department of Personnel & Training,  
North Block, New Delhi.

4. H.C. Segon, Joint Director, NSD,  
All India Radio, Broadcasting  
House, Parliament Street, New Delhi.

5. M.M. Lal, Joint Director,  
Directorate of Publication Division,  
Patiala House, New Delhi.

6. Sumati Vashwanathan, Joint Director,  
NSD, All India Radio, Broadcasting House,  
Parliament Street, New Delhi.

7. A.S. Birgi, News Editor, NSD, All India Radio,  
Broadcasting House, Parliament Street, New Delhi.

8. Rajendra Roy, Campaign Office, DAVP,  
PTI Building, Parliament Street,  
New Delhi. -Respondents

(Official Respondents by Advocate Shri R.P. Aggarwal)

(Private Respondents by Advocate Shri. Rajinder Rai)

OA No. 2685/2000

1. Sh. D. Satapathy,  
S/o Sh. Laxman Satapathy
2. Sh. R.C. Saldi,  
S/o late Sh. SKD Saldi
3. Sh. M.Y. Siddiqui,  
S/o H.M. Idris
4. Sh. Raju Korah,  
S/o late Sh. V.K. Korah
5. Sh. Mehboob-ur-Rehman,  
S/o late Sh. H.R. Farooq
6. Sh. Noorullah Khan,  
S/o late Sh. Irtaza Khan
7. Sh. P.K. Thampi,  
S/o Sh. P.K. Kuriakose
8. Sh. G.S. Randhawa,  
S/o late Sh. S.H.S. Randhawa
9. Sh. S.V. Menon,  
S/o Sh. K.K. Pillai
10. Sh. Dalip Singh,  
S/o late Sh. Hazara Singh

-Applicants

(By Advocate Shri B.S. Mainee)

-Versus-

1. Union of India, through  
Secretary, Ministry of  
Information & Broadcasting,  
Shastri Bhawan, New Delhi  
and 26 others (as per memo  
of parties).

-Respondents

(Official Respondents by Sh. R.P. Aggarwal, Advocate)

(Private respondents through Sh. A.K. Behera, Advocate)

#### O R D E R (ORAL)

Mr. Shanker Raju, Member (J):

In these OAs, two sets of employees have assailed a common seniority list. As the question of law is identical, these OAs are disposed of by this common order.

2. In OA-1963/2000 applicants who are direct recruits to Indian Information Service Group 'A' on the basis of the results of the Civil Service Examination has

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assailed the seniority list dated 11.7.2000 basically on the ground that without circulating the draft seniority list and inviting objections from them the same has been finalised with the result they have been relegated by more than 150 positions in the seniority list. Applicants have sought quashing of the seniority list with direction to the respondents to consider their objection before finalising the seniority list and also to hold a review DPC to withdraw benefit of ad hoc service to the promotees and their rightful placement in the seniority list with all consequential benefits.

3. In OA-2685/2000 seniority list dated 11.7.2000 has been challenged by the promotees who were in the senior time scale of Indian Information Service (IIS, for short) Group 'A' Grade of the CIS whereby their settled seniority has been changed to their detriment without affording them a reasonable opportunity to show cause. They have sought quashing of the list and restoration of their seniority vis-a-vis private respondents with all consequential benefits.

4. By an order dated 26.9.2000 as well as order dated 3.1.2001 further promotions on the basis of the impugned seniority list dated 11.7.2000 have been made subject to the outcome of these OAs.

5. It is relevant to enunciate the brief background leading to the present OAs. IIS is an organised Central Service previously known as CIS. In the year 1987 this service was bifurcated into IIS Group 'A' and 'B'. Appointment to Grade II, i.e., Junior Grade IIS Group 'A'

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is made through two sources, direct recruitment by UPSC through Civil Services Examinations and departmental promotion from IIS Group 'B' in the ratio of 1:1 as per the recruitment rules. As the syllabus for direct recruitment was under revision rules could not be followed between 1.1.74 to 31.12.80. No direct recruitment could be made during this period but promotions continued. Officers were promoted on ad hoc basis despite existence of regular vacancies but they were not become eligible for further promotion as having worked in the feeder grade on ad hoc basis without requisite length of regular service.

6. The officers working on ad hoc sought their regular appointment counting this service for purposes of seniority and promotion in various OAs and Writ Petitions. In one of the decisions in T-1250/85 in S.C. Kacktwana & Ors. v. Union of India, by an order dated 6.3.87 the benefit of ad hoc service was extended to the petitioners above IIS. In another judgement TA-1183/85 in K.L. Wadhwa & Ors. v. U.O.I. by judgement dated 6.3.87 benefit of ad hoc service in Grade IV of IIS was extended to the petitioners. In two others OAs OA-1204/87 S.K. Nayyar & Ors. v. U.O.I. and in OA-1051/87 A.K. Roy & Others v. U.O.I. similar benefit was extended.

7. One Sh. A.K. Bhatnagar filed Writ Petition before the Apex Court in Writ Petition No.12874/85 seeking benefit of ad hoc service rendered in Grade IV of IIS for promotion to grade III. The judgements of the Tribunals taken to Apex Court in Wadhwa and Nayyar cases were clubbed and the Writ Petition was dismissed by the Apex Court on 9.11.90 by observing that in the absence of a provision in

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the rules the length of service is taken into account. As the decision of Kacktwana, Arora and Roy cases were not clubbed as these pertained to benefit of service in Grade III onwards the decisions remained unaffected.

8. Government filed two SLPs Nos. 1708/88 and 1371/87 before the Apex Court challenging the decisions of the Tribunal in the cases of S.C. Kacktwana & Ors. and V.K. Arora & Ors. No stay was granted by the Apex Court and the judgements of the Tribunal were implemented by revising seniority of the petitioners taking into consideration their ad hoc officiation in various grades and giving them all consequential benefits by holding review DPCs in 1988. These benefits have also been granted to similarly circumstance officers. In compliance of the judgement of the Apex Court in Bhatnagar's (supra) case another review DPC was held in 1992. This resulted in a change in the seniority list.

9. Apex Court finally disposed of the Petitions in Kacktwana and Arora cases (supra) by dismissing the appeals and those who had already retired the finding of the Tribunal was not interfered with as regards conferring benefits to them. However, it was made clear that the question of law is left open and any law declared in any other case without prejudice to the rights of the appellants the decision would not come in its way but the right of the respondents shall not be disturbed.

10. The matter has been referred to the Law Ministry for advice and as per this legal opinion the seniority list has been finalised by placing en bloc

promotees of the recruitment year 1974-1980 senior to the first direct recruit of the recruitment year 1981 and interpolating direct recruits and promotees officers from recruitment year 1981 onwards as per DOP&T instructions dated 22.12.1959 readwith clarification dated 7.2.86. Inter-se-seniority of the promotees has been determined on the basis of the panels recommended by the original DPCs held in UPSC and benefit of ad hoc service was not given. The officers have been placed on the basis of the latest DPCs held for different grades for the reasons assigned in the remarks.

11. Though several contentions have been raised by Sh. A.K. Behera and Sh. B.S. Mainee, learned counsel appearing for the applicants, but at the outset, revised seniority list has been impugned on the ground that the seniority list formulated by the respondents is based on irregularities and illegalities and though they were obliged to hold review DPCs after the decision in Kacktwana's case (supra) and thereafter to issue draft seniority list in various grades inviting objections and affording reasonable opportunity and thereupon to finalise the seniority list. As the seniority list has been finalised without issuing a tentative seniority list and in the seniority list the seniority of the applicants is depressed and they are relegated to lower position. The aforesaid action of the respondents is in violation of principles of natural justice. The reliance has been placed on the following decisions to contend that without preparing a draft seniority list and without calling for objections and giving an opportunity to show cause against the same any change in the seniority to the detriment of