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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

O.A. NO. 465/2000

NEW DELHI: this the 20th day of April, 2000.

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

HON'BLE MR. KULDIP SINGH MEMBER (J).

Tushar Ranjan Mohanty,
S/o Shri Rabi Narayan Mohanty,
Director (Statistics and Records),
Directorate of Statistics and Records,
Directorate General of Resettlement,
Ministry of Defence,
West Block No. 4, Wing No. 5,
First Floor,

R.K. Puram, New Delhi - 66
(Applicant in person)

....Applicant to

Versus

1. Union of India,
through the Secretary,
Ministry of Statistics & Programme Implementation,
Sardar Patel Bhawan, Sansad Marg,
New Delhi - 1.

2. Shri G.R. Meena,
C/o The Secretary,
Ministry of Statistics and Programme Implementa-
tion, Sardar Patel Bhawan,
Sansad Marg,
New Delhi - 1.

3. Shri M.R. Meena,
C/o the Secretary,
Ministry of Statistics and Programme Implementa-
tion,
Sardar Patel Bhawan,
Sansad Marg,
New Delhi - 1

.....Respondents.

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ORDER

HON. MR. S. R. ADIGE VC(A)

Applicant impugns respondents' order dated 8.7.96 (Annexure A-1) whereby a seniority list of Grade IV Officers of Indian Statistical Service as on 15.11.92 has been circulated, in which private Respondents no. 2 and 3 feature at Sl. Nos. 197 and 196 respectively and their date of appointment (date of recommendation by UPSC for direct recruit, date of continuous officiation in case of promotees) has been shown as 29.12.83 and 12.9.83 respectively. He prays that their seniority be fixed from the date of UPSC's recommendations.

2. Applicant had earlier filed OA No. 1827/96 seeking similar relief in respect of Sl. Nos. 9, 10, 11 and 12 in the impugned seniority list, although they had not been impleaded as respondents. After pleadings were completed applicant as well as official respondents were heard at length on the preliminary objection of non-joinder of proper and necessary parties raised by official respondents, as well as on merits. Thereupon the preliminary objection raised by official respondents of non-joinder of proper and necessary parties was upheld, and the OA was dismissed by our order dated 3.3.2000 without going into the merits of the case.

3. Applicant has now filed this fresh OA specifically impleading Respondents No. 2 and 3.

4. Admittedly Respondents no. 2 and 3 were appointed to Grade IV of I.S.S. with effect

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from 3.2.1987 on the basis of UPSC's recommendations, but have been assigned seniority in that grade from the respective dates of their initial appointment as Assistant Directors in Data Processing and Survey Design and Research Division, National Sample Survey Organisation, Calcutta, which appointments were also made on the basis of UPSC's recommendations.

5. One of the grounds taken by applicant in the OA is that R-2 and R-3 having been appointed to I.S.S. at a subsequent stage, are deemed to have been appointed to the service under Rule 7A(2) I.S.S. Rules, 1961 and their seniority has to be fixed under Rule 9A(5) I.S.S. Rules, 1961.

6. It is clear that the aforesaid Rule 7A(2) is not applicable to Respondents 2 and 3. While no doubt Respondents 2 and 3 are departmental candidates within the meaning of Rule 2(d) I.S.S. Rules, 1961, they are not those who were not selected for appointment to any grade in the service and were required to be reconsidered for appointment at a subsequent stage. Respondents 2 and 3 were in fact appointed under the provisions of Rule 7A(1), and their seniority has, therefore, to be determined in accordance with Rule 9A(4)(1)(a) I.S.S. Rules. Hence this ground fails.

7. Another ground taken by applicant is that the date of appointment of the Respondents 2 and 3 on

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UPSC's recommendations is 3.2.1987 and the same cannot be varied for fixing of fresh seniority. We have already seen that the seniority of Respondents 2 and 3 has been fixed in accordance with the specific provisions contained in I.S.S. Rules themselves. Hence this ground also fails.

8. Another ground taken is that the Selection Committee constituted for judging the suitability of Respondents 2 and 3 did not have the mandatory approval of the Indian Statistical Service Board. If applicant had any grievance regarding the Constitution of the Committee that selected Respondents 2 and 3 as Members of the I.S.S. Cadre, he should have raised it at the proper time. He cannot question the constitution of the Selection Committee, 12 years after Respondents 2 and 3 have been inducted into the I.S.S. Hence this ground also fails.

9. Another ground taken is that Respondents 2 and 3 having been put on the probation for two years they cannot claim the benefit of past service. Official Respondents had correctly pointed out in their reply to OA No. 1827/96 that mere mention of the fact that Respondents 2 and 3 would be on probation can in no way be interpreted to mean that no weightage would be given to past service rendered by them in the same pay scale of pay and in the same grade, the only difference that they had earlier been working on posts outside the I.S.S. Cadre, having been appointed as Assistant Directors

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on UPSC's recommendations. It has been pointed out that all these officers had subsequently been promoted to higher grades and the fact that they were found fit/ suitable for promotion itself is sufficient to prove their suitability for inclusion on regular basis in I.S.S. Hence this ground also fails.

10. The next ground taken is that seniority of Respondents 2 and 3 in the impugned seniority list is against the CAT(Full Bench), P.B. Judgment in OA No. 1189/88 dated 2.2.1984 I.S. Sain Vs. Union of India & Others. That ruling related to the Indian Economic Service while the present O.A. relates to Indian Statistical Service. It is true that the Service Rules of the two services are similar, but even if there was a rule in the I.E.S. Rules corresponding to Rule 9A(1) I.S.S. Rules, 1961 there was no discussion in that ruling in Sain's case (supra) of the afore said Rule 9A(4)(1). Hence this ruling does not advance applicant's case in the present O.A.

11. The next three grounds taken are that the appointment of Respondent No. 2 is against Rule 2(d) (ii) ISS Rules, 1961 as well as against the Full Bench judgment of the Tribunal in Sain's case (Supra) and that the appointment of Respondent 3 to a post just one day prior to its encadrement proves that

there is something amiss in the entire matter. While in the relief claimed by applicant he has only sought re-fixation of seniority of Respondents 2 and 3 in the three grounds just mentioned, applicant has challenged the very appointment of respondents to ISS cadre. If applicant had any grievance regarding the appointments of Respondents 2 and 3 to ISS Cadre, he should have agitated the same at the time respondents were appointed and not 16 years after they were appointed. Furthermore, merely because Respondent No. 3 was appointed to a post just one day prior to his encadrement, does not necessarily prove that there is something amiss in the entire matter. Unless applicant can furnish materials to establish that indeed that there was something amiss, and in the OA at any rate no such materials have been furnished.

12. In the light of the above, the OA is dismissed in limine. No costs.


(KULDIP SINGH)
MEMBER (J)


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

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