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CENTRAL ADMINISTRATIVE TRIBUNAL  
Principal Bench

O.A. No. 466 of 2000

New Delhi, dated this the 11<sup>th</sup> April, 2000

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)  
HON'BLE MR. KULDIP SINGH, MEMBER (J)

Shri T.R. Mohanty,  
S/o Shri R.N. Mohanty,  
Director (Statistics & Records),  
Directorate of Statistics & Records,  
Directorate General of Resettlement,  
Ministry of Defence,  
West Block No. 4, Wing No.5,  
First Floor,  
R.K. Puram,  
New Delhi-110066.

.. Applicant

(Applicant in Person)

Versus

1. Union of India through  
the Secretary,  
Ministry of Statistics & Programme Implementation,  
Sardar Patel Bhawan, Sansad Marg,  
New Delhi-110001.
2. Shri K.R. Ramanakartha,  
C/o the Secretary,  
Ministry of Statistics & Prog. Impl.  
Sardar Patel Bhawan, Sansad Marg,  
New Delhi-110001.
3. Shri H.N. Bali,  
C/o the Secretary,  
Ministry of Statistics & Programme Impl.  
New Delhi.
4. Shri P.K. Maulik,  
C/o the Secretary,  
Ministry of Statistics & Prog. Impl.  
New Delhi.
5. Shri M.L. Joshi,  
C/o the Secretary,  
Ministry of Statistics & Programme Impl.  
New Delhi.
6. Shri C. Sriramamurthy,  
C/o the Secretary,  
Ministry of Statistics & Prog. Impl.,  
Sardar Patel Bhawan,  
Sansad Marg,  
New Delhi-110001. .. Respondents

ORDER

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

Applicant impugns respondents' orders 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 Respondents No.2 to 6 have been shown as senior to him. He prays that their seniority be fixed from the date of U.P.S.C's recommendations.

2. Applicant had earlier filed O.A. No. 1827/96 seeking the same relief. After pleadings ~~were~~ completed, both sides were heard at length on the preliminary objection of non-joinder of proper and necessary parties raised by Respondents, as well as on merits. Thereupon the preliminary objection raised by Respondents of non-joinder of proper and necessary parties namely Respondent No.2 to 6 of the present O.A. was upheld, and the O.A. was dismissed by our order dated 3.3.2000 without going into the merits of the case.

3. Applicant has now filed this fresh O.A. impleading Respondent No.2 to 6.

4. Admittedly Respondent No. 2 to 6 were appointed to Grade IV of I.S.S. with effect from 25.8.1984 on the basis of UPSC's recommendations, and 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 2-6 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 2-6. While no doubt Respondents 2-6 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 2-6 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 2-6 on

UPSC's recommendations is 25.8.1984 and the same cannot be varied for fixing of fresh seniority. We have already seen that the seniority of Respondents 2-6 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 2-6 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 2-6 as Member of the I.S.S. Cadre, he should have raised it at the proper time. He cannot question the constitution of the Selection Committee, 16 years after Respondents 2-6 have been inducted into the I.S.S. Hence this ground also fails.

9. Another ground taken is that Respondents 2-6 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 2-6 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 on UPSC's recommendations. It has been pointed out that all

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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.

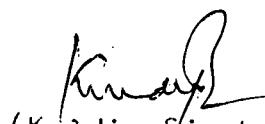
10. The next ground taken is that seniority of Respondents 2-6 in the impugned seniority list is against the CAT (Full Bench), P.B. Judgement in O.A. No. 1189/88 dated 2.2.1994 I.S. Sain Vs. Union of India & Others. That ruling related to the Indian Economic Service while the present O.A. relates to 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 aforesaid Rule 9(A)(4)(1). Hence this ruling does not advance applicant's case in the present O.A.

11. Lastly, it has been urged that the date of appointment of H.N. Bali has been wrongly shown and he has been given wrong benefit of Seniority of five years. A perusal of the <sup>relevant</sup> ~~relevant~~ paragraph, in Respondents' reply in OA 1827/96 reveals that while Shri Bali was no doubt shown as having been appointed as Assistant Director in N.S.S.O. on 29.7.1982, his seniority in I.S.S. Grade IV, has been determined on the basis of inter se seniority assigned by Data Processing Division of N.S.S.O.

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vide O.M. dated 10.8.1963 (Annexure R-4 to Respondents reply in OA No. 1827/96). Applicant has not established that this determination of Shri Bali's seniority in I.S.S. is in any way repugnant to Rule 9(A)(4)(1) and in any case Shri Bali has since retired on superannuation.

12. In the light of the above, the C.A. warrants no interference. It is dismissed in limine.

  
(Kuldip Singh)  
Member (J)

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

\*GK\*  
Mittal\*