

Central Administrative Tribunal
Principal Bench

OA No.2115/90

&

OA No.1603/89

New Delhi this the 8th Day of June, 1995.

Hon'ble Mr. J.P. Sharma, Member (J)
Hon'ble Mr. B.K. Singh, Member (A)

OA-2115/90

1. Ram Sanehi
2. S.H.R. Hashmi
3. K.K.R. Kumar
4. S.C. Jaggi
5. S.L. Gade
6. Ashok Bansod
7. R.C. Chaturvedi
8. S. Srivastava
9. R.P. Daundiyal
10. K.J. Chellani
11. S.S. Sharma

All Deputy Chief Controllers of
Imports and Exports new CGO
Building, New Marine Lines
Bombay 400 020.

...Applicants

(through Sh. Gyan Prakash with Sh. P.P. Khurana)

Versus

1. Union of India through
Secretary, Ministry of
Personnel, Department of
Personnel and Training,
Central Secretariat,
New Delhi-110 001.
2. Secretary,
Department of Commerce,
Udyog Bhawan,
New Delhi-110 011.
3. Secretary,
Union Public Service Commission
Dholpur House,
New Delhi-110 011.
4. Chief Controller of Imports & Exports,
Udyog Bhawan,
New Delhi-110 011.
5. Joint Chief Controller of
Imports & Export,
New CGO Building, New Marine Lines,
Bombay-400 020.

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6. Sh. B. Kukreti,
Director (Export Promotion)
Ministry of Commerce,
Udyog Bhawan,
New Delhi-110 011.
7. Sh. Sudharsahn Singh,
Director (Export Promotion),
Ministry of Commerce,
Udyog Bhawan,
New Delhi.
8. Sh. B.L. Malhotra,
Dy. Director (Export Promotion),
Ministry of Commerce,
Udyog Bhawan,
New Delhi.
9. Sh. K.G. Uke,
Dy. Director (Export Promotion),
4, Esplanade (East),
Calcutta-700069. Respondents

(By Additional Solicitor General Sh. M. Chandrasekhran
with Sh. M.K. Gupta, Additional Standing Counsel)

OA-1603/89

1. C.T.S. Officers' Association
through its Secretary,
Sh. O.P. Gehlaut,
I.P. Bhawan,
A-Wing, New Delhi-11002.
2. Sh. N.S. Srivastava
S/o Sh. Adhin Lal,
Jt. C.C. I&E, Udyog Bhawan,
New Delhi.
3. Sh. Chandra Prakash
S/o Sh. Hari Ram,
Dy. C.E. I&E, Udyog Bhawan,
New Delhi.
4. Sh. V.Rama Rao,
S/o Sh. V.C. Satyanarayanan,
Jt. C.C. I&E, Udyog Bhawan,
New Delhi.
5. Sh. L.K. Batra,
S/o Sh. N.G. Bhatia,
Dy. CC I&E, Udyog Bhawan,
New Delhi.
6. Sh. M.M. Rehhani,
S/o Sh. H.D. Rehani,
Dy. CC I&E, Udyog Bhawan,
New Delhi.
7. Sh. S.P. Dhupar,
S/o Sh. C.B. Dhupar,
Jt. CC I&E, Udyog Bhawan,
New Delhi.

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8. Sh. Ram Sanehi,
S/o Sh. Kanhi Singh,
Dy. CC I&E C/o Jt. CC I&E,
CLA, New Delhi.
9. Sh. Mukesh Bhatnagar,
S/o Sh. K.D. Bhatnagar,
Asstt. CC I&E, Udyog Bhawan,
New Delhi.
10. Sh. S.P. Chhibbar,
S/o late Sh. S.R. Chhibbar,
Dy. CC I&E, Udyog Bhawan,
New Delhi.
11. Sh. S.R. Johar,
S/o late Sh. H.L. Johar,
Dy. CC I&E, Udyog Bhawan,
New Delhi.
12. Sh. D.K. Bhattacharya,
S/o N.G. Bhattacharya,
ACC I&E C/o Jt. CLA.
13. Sh. N.D. Agnihotri,
S/o Sh. T.L. Agnihotri,
Dy. CC I&E.
14. Sh. L.M. Lakra,
S/o late Sh. A.M. Lakra,
Dy. CC I&E C/o CLA.
15. Sh. K.K.R. Kumar,
S/o late Dr. K.K. Pillai,
Dy. CC I&E,
Bombay-20.
16. Sh. S.L. Gade,
S/o Sh. L.P. Gade,
Dy. Chief, Bombay.
17. Sh. S. Rajan,
S/o Sh. S. Subramanian,
A.C.E. Bombay.
18. Sh. R.C. Chaturvedi,
S/o Pt. G.P. Chaturvedi,
Dy. CC I&E, Bombay.
19. Sh. S.H.R. Hashmi,
S/o Sh. S.R.R. Hashmi,
Dy. Chief, Bombay.
20. Sh. A.G.V. Subbu,
S/o late A.V. Gunnam,
Dy. Chief, Bombay.
21. Sh. S. Shrivastava,
S/o Sh. Jagannath Sahai,
Dy. Chief, Bombay.

22. Sh. R.P. Dhaundiyal,
S/o late Sh. Ishwari Dutt,
Dy. Chief, Bombay.

23. Sh. S.C. Jaggi,
S/o late Sh. L.R. Jaggi,
Dy. CC I&E, Bombay.

24. Sh. K.J. Chellani,
S/o late Sh. J.D. Chellani,
Dy. CC I&E, Bombay.

25. Sh. V.K. Gupta,
S/o Sh. J.C. Gupta,
C/o Jt. CC I&E,
CLA, New Delhi.

Applicants

(through Sh. Gyan Prakash with Sh. P.P. Khurana)

versus

Union of India
through the Secretary,
Ministry of Commerce,
Udyog Bhawan, New Delhi.

Respondents

(through Sh. M.Chandreshkhan, Addl.Solicitor
General with Sh. M.K. Gupta)

ORDER

delivered by Hon'ble Sh. B.K. Singh, Member(A)

did not raise any objection. Since the facts and the legal issues
to adjudicate involved in these two O.A.s. are similar, these are
conjoined (O.A.2115/90) being disposed of by a common judgement in the case of
Ram Sanehi treating it as the leading case.

This O.A.No.2115/90 is directed against the
appointment of Respondents No.6 to 9 to the Central
Trade Service vide notification dated 28.6.1989
(exhibit A-5) and also assignment of seniority to them
in the seniority list vide letter dated 28.9.1989
(exhibit A-4).

The applicants are officers belonging to the
Grade-II of the Central Trade Service and holding the
post of Dy. Chief Controller, Imports and Exports in
the office of Joint Chief Controller, Imports and

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Exports, Bombay elsewhere in the other O.A. The said service is an organised Group-A service of Government of India. It was formed vide notification No.6/12/66-E.I. dated 3.8.1977 and governed by Central Trade Service (Group-A) Rules, 1977. These rules came into effect from 6.8.1977. These rules were amended in 1979, 1980, 1981, 1983 and 1987. A copy of the Central Trade Service (Group-A) Rules, 1977 was published vide notification dated 3.8.1977 and is annexed and marked as exhibit A-1.

Rule-3 of the said rules provides that there shall be constituted a service to be known as Central Trade Service (Group-A) consisting of persons appointed to the service under Rules-6,7 & 8.

Rule-6 of the said rules provides for the initial constitution of the service consisting of 'departmental candidates'. Rule-2(c) defines a 'departmental candidate' as consisting of persons holding the posts listed in schedule-I to the said rules. According to the applicants, the following posts were included in the initial constitution of the service; Group-I Joint Chief Controller of Imports and Exports, Group-II Dy. Chief Controller of Imports and Exports, Group-III Asstt. Chief Controller of Imports and Exports.

It is asserted by the applicants that initial constitution of the service was completed by 1979 after induction of 'departmental candidates' as defined in Rule-2(c) of the rules.

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Rule-8 of the said rules provides for future maintenance of the service. It stipulates that if the initial constitution of the service has been completed with by the appointment of departmental candidates, all other vacancies shall be filled in the manner indicated in Rule-8.

Vide letter No.A-12018/2/87-E.I dated

20.12.1988 an amendment was issued by Govt. of India, Ministry of Commerce. This came into effect from the date of its publication in the official gazette. This effected an amendment to proviso to sub-clause (ii) of clause (c) of Rule-2. By this, those holding the post of Controller or Enforcement Officer in the organisation of the Chief Controller of Imports and Exports were made eligible to be considered for promotion from Group-B to senior scale of Group-A without having to pass through junior scale. This notification dated 20.12.1988 is annexed and marked as exhibit A-2.

The said notification further amended clause (b) of said rule (1) of Rule-8 to the effect that 31.33% vacancies were to be filled up on the basis of selection of Controllers/Enforcement Officers and Export Promotion Officer of the erstwhile Export Promotion Cadre with 8 years regular service. According to this the post of Controller/Enforcement Officer and Export Promotion Officer of the erstwhile Export Promotion cadre are Group B officers.

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The said amendment implied that Group-II (Senior scale post) of the Central Trade Service would be filled up to the extent of 31.33% by promotion not only of Controllers and Enforcement Officers but also by the Export Promotion Officers of the erstwhile Export Promotion Cadre.

The applicants challenged this and asserted that the Export Promotion Cadre is not an erstwhile cadre post but an ex cadre post and no notification is there to show that this cadre has been abolished. There are two posts of Joint Directors (Export Promotion), 8 posts of Dy. Directors (Export Promotion) and 16 posts of Export Promotion Officers in addition to several staff in Group-B and Group-C categories in the so called erstwhile Export Promotion organisation. Para-2 of schedule-I has also been amended altering the number of posts in each grade and also revising the cadre strength. A new category of posts of Dy. Director (Export Promotion) has been introduced in Group-II. In addition, two posts of Director (Export Promotion) has been added to Group-I with the remark that these posts would stand down graded as Joint Directors from the date they are vacated by the existing incumbents.

A seniority list of Central Trade Service Group-II officers was issued vide Notification No. CCI&E No.11/1/89-Admn(G)5116 dated 19.7.1989. In the said seniority list one Sh. S.K. Dutta was the senior most at serial No.1 and S/Sh. R.K. Sharma, K.J. Chellani and K.K.R. Kumar were at Sr. Nos.

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4, 7 and 11 respectively. It is annexed and marked as exhibit A-3. By O.M. No. A-32012/89-E.I dated 28.9.1989, a seniority list of Grade-I and Grade-II officers of the Central Trade Service was issued. The applicants allege that this seniority list contained names of persons who were not members of the organised service. This is annexed and marked as exhibit A-4 of the paperbook and this includes the name of Sh. M.P. Saxena who has been assigned seniority at Sr.No.1 bringing down seniority of Sh. S.K. Dutt from Sr.No.1 to 2 and that of the said S/Sh. R.K. Sharma, K.J. Chellani and K.K.R. Kumar from 4 to 5, 7 to 10 and from 11 to 14 respectively. This was because of induction of Sh. M.P. Saxena, Sh. B.L. Malhotra and Sh. K.G. Uke at Sr.Nos. 1, 7 and 8 respectively. Sh. M.P. Saxena, Sh. B.L. Malhotra and Sh. K.G. Uke at Sr.Nos. 1, 7 & 8 in the Grade-II and S/Sh. C.B. Kukreti and Sudarshan Singh in Grade-I were included vide Notification No. 34/89/A-32012/1/89-E.I dated 28.6.1989 appointing them in the Grades-I & II respectively. The gazette notification dated 5.8.1989 is annexed and marked as exhibit A-5.

The applicants challenged these notifications on the ground that U.P.S.C. was not consulted and that this is not covered by the Central Trade Service Recruitment Rules, 1977. It is further stated that one Sh. P. Govindaraju not inducted at the initial constitution of the service, filed a writ petition in the High Court of Bombay and the present applicants as respondents contested that petition and it was dismissed. Sh. Govindaraju was, however, dismissed from his service.

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inducted at the maintenance stage and allotted seniority with reference to the date of entry into service. The applicants represented individually and collectively but the respondents never paid heed to these representations. Aggrieved by this, they have filed this O.A.No.899/89 on 28.11.1989, praying for the following reliefs:-

(a) The appointment of S/Sh. M.P.

Saxena, B.L. Malhotra and K.G.

Uke to Grade-II of the Central

Trade Service and of S/Sh.

C.B. Kukreti and Sudarshan Singh

as Director Export Promotion vide

Notifications dated 28.6.1989

(exhibit A-5) be quashed and set

aside;

(b) the seniority list as published

in office memorandum dated

28.9.1989 of the Central Trade

Service Officer (exhibit A-4) be

set aside.

On notice, the respondents contested the application and opposed the grant of reliefs prayed for.

We heard the learned counsel Sh. Gyan Prakash with Sh. P.P. Khurana for the applicants and Sh. M. Chandershekhran, Addl. Solicitor General with Sh. M.K. Gupta for the respondents and perused

the record of the case. The learned counsel for the applicants argued that Central Trade Service now called Indian Trade Service was notified on 3.8.1977 and the rules came into force from the date of their publication in the official gazette on 6.8.1977. There are three grades in service, namely, Grade-I, Grade-II and Grade-III. The posts included the various grades of service and their number etc. is specified in schedule-I of the said gazette notification. This was later amended vide gazette notification (Part-II, Section 3) dated 20.12.1988. The provision of initial constitution of the service (after determining the suitability of departmental candidates for appointment to the different grades of the service) is laid down in Rule-6 of the Central Trade Service. The future maintenance of the service after completion of the initial constitution by the departmental candidates has been laid down in Rule-8 of the Central Trade Service now called Indian Trade Service. How the posts will be filled up is prescribed in Rule-8. As regards Group-A, 40% of the vacancies were to be filled up by transfer on deputation of officers from the I.A.S. and Central Services Group 'A' eligible for appointment as Deputy Secretary to the Government of India and it was further laid down that their deputation period ordinarily will not exceed more than 4 years and the remaining vacancies in Grade-I were to be filled up by selection on merit from the members of Grade-II who have completed at least 5 years' service in the grade

rendered after appointment thereto on a regular basis on the recommendations of a Departmental Promotion Committee.

It further envisaged that for a period of five years from the date of the commencement of the service, service rendered by a Grade-II officer as erstwhile regular Deputy Chief Controller in the organisation of Chief Controller of Imports and Exports shall be counted as qualifying service for purposes of eligibility for promotion from Grade-II to Grade-I.

(B) Grade-II

Estimated cadre strength of the Central Excise and Salt Commission is 662 officers. "66-2/3% vacancies will be filled by promotion on the basis of non-selection drafted up to the strength of Grade-III officers of the Central Excise and Salt Commission Trade Service with 4 years' regular service in the grade, (ii) 33-1/3% vacancies will be filled by promotion on the basis of selection of Controller/Enforcement Officer and Export Promotion Officer of the erstwhile Export Promotion Cadre with 8 years regular service in the respective grades."

(C) Grade-III

"Rule 8 100% vacancies will be filled by direct recruitment through the competitive Examination held by the Commission in the manner prescribed in Part II, Schedule II."

After amendment in the recruitment rules as notified on 20.12.1988, the respondents i.e. U.O.I. inducted respondents number 6 to 9 (S/Sh. C.B.

Kukreti, Sudarshan Singh, B.L. Malhotra and K.G. Uke) of the Export Promotion Directorate into the Central Trade Service vide the impugned order dated 28.6.1989 (exhibit A-5). It is asserted that these inductions were against the procedure laid down in Rule-8 of the Central Trade Service and that this was done much after the initial constitution of service in November, 1979. According to the learned counsel, rule-8 clearly lays down that the appointment to the Grade-I and Grade-II to Central Trade Service (in the ITS) shall be on the recommendation of the Departmental Promotion Committee. It is alleged that these four Export Promotion Officers neither came through competitive examination nor through D.P.C.

It is admitted by the applicants that in the amended recruitment rules, certain posts have been included in the Schedule, but mere inclusion of such posts according to them does not confer the benefit of proper induction and, therefore, they have challenged the induction of S/Sh. C.B. Kukreti, Sudarshan Singh, B.L. Malhotra, K.G. Uke (respondents No. 6 to 9). They also say that these people were given

undue seniority on the basis of their past service in the Export Promotion Directorate/Department.

According to the applicants they are not eligible for the benefit of seniority which has been conferred upon them by the respondents. Thus, it is a case of conferring undue advantage of seniority on them by the Ministry of Commerce and, therefore, they have prayed that the seniority list circulated on 28.8.1989 should be struck down.

We have heard the learned counsel for the parties on several dates and gone through the records.

After going through the records we find that there was an interim order passed by Central Administrative Tribunal (Principal Bench) on 22.2.1990 which reads as follows:-

"6. We do not wish to express any

opinion, one way or the other, about the

rival contentions of the parties. We,

however, make it clear that the

respondents will be at liberty to make

appointments to the posts of Joint Chief

Controller, Additional Chief Controller

and above but such appointments shall not

be made on regular basis during the

pendency of the present application. The

persons so appointed should also be

specifically informed about this. Misc.

Petition 447/90 stands disposed of

accordingly. The interim order passed on

16.2.1990 in OA 899/88 of the New Bombay

Bench stands modified by this order. Let

a copy of this order be also placed in OA

899/90 of the New Bombay Bench and in OA

1603/89."

Later, by this order the previous interim order was modified. A perusal of the record shows that when a new service is created, the induction is made horizontally and vertically. The induction can be by transfer on deputation from other services or from within that department itself of people working in the various organisations under the same department or Ministry. This has always been the practice in the organised services. There were only 8 organised services in Railways and subsequently the Indian Railway Personnel service was created by inviting options from all the 8 organised services under the Ministry of Railways and that is how the initial constitution of Indian Railway Personnel service came into being. Similarly, when British people left India, we had the service called the Indian Civil Service and Imperial Police Service and in 1947-1948 all India Services were created such as IAS and IPS and the first recruitment was from various sources and these sources were practically 10 in number. We had promotees. We had war service recruits. We had direct recruits. We had regular recruits from 1948. We had emergency recruitment in 52 & 57 and that is how that we had 10 sources of recruitment in the IAS and in order to build up cadre strength of these two services, recruitments were made from different sources. This is the practice whenever a new service

8

is created and at the initial stage in order to build up a cadre you have to go in for initial constitution by making induction vertically and horizontally and from various sources as far as possible from within the same Ministry/Department or from other sources if the reasonable number if not available in the same Ministry or Department. A perusal of the record shows that while amending the recruitment rules schedule-I also got amended. Rule-6 shows that para-2 of the schedule-I, the following para shall be substituted.

"The number of posts included in the various grades of the service shall be shown as below:-

Designation of posts	Number of posts
Grade-I	
Director (Export Promotion)	2
Joint Chief Controller of Imports & Exports	16
Grade-II	
Dy. Chief Controller of Imports & Exports	49
Dy. Director (Export Promotion)	4
Grade-III	
Asst. Chief Controller of Imports and Exports	141

Thus the first induction in the cadre after the amendment of the rules is as indicated above. It is true that in the note it is stated that the posts

(B)

of Director (Export Promotion) will stand down graded as Joint Directors from the date they are vacated by the existing incumbents. The principal rules published vide letter No.6/12/66-E.1 dated 3.8.1977, in Part-I, Section-2 of the Gazette of India, dated 6.8.1977 and subsequently amended vide:

- (1) G.S.R. No.267 dated 17.2.1979
- (2) G.S.R. No.1181 dated 15.11.1980
- (3) G.S.R. No.666 dated 18.7.1981
- (4) G.S.R. No. 208 dated 12.3.1983
- (5) G.S.R.No. 440 dated 5.5.1984
- (6) G.S.R. No.800 dated 31.10.1987.

On 31.7.1989, The seniority list was revised on 31.7.1989.

and this seniority list was circulated to all concerned and objections, if any, were invited by

18.8.1989. It is presumed that the applicants must have given their objections to the seniority published by the Ministry of Commerce and these would have been looked into by the Government in the Ministry of Commerce. The contention of the applicants that Sh. M.P. Saxena, Sh. B.L. Malhotra and Sh. K.G. Uke were not properly inducted is not borne out by facts.

There is a notification No. 34/89(A-32012/1/89-E.1) dated 28.6.1989 which reads as follows:-

"The President is pleased to appoint the following officers in Grade-II of CTS w.e.f. the forenoon of 24.6.1989. These are Sh. M.P. Saxena, Deputy Director (Export Promotion) (2) Sh. B.L.

Malhotra, Deputy Director (Export

Promotion) (3) Sh. K.G. Uke, Deputy

Director (Export Promotion)."

There is another Notification No.35/89(A-32012/1/89-E.1) which reads: "The President is pleased to appoint the following officer in Grade 1 of CTS w.e.f. the forenoon of 24.6.1989:-

1. Shri C.B. Kukreti (Director, Export Promotion)

2. Shri Sudarshan Singh (Director, Export Promotion).

It also says that the President is also hereby pleased to promote 'in situ' Shri Krishnan to the grade of Director with effect from 1.7.1989.

After going through the records and after hearing the rival contention of the parties, we find that there is no unconstitutionality and illegality either in creation of the service or in its initial constitution or in induction in the various grades.

As already stated when initial service is created and a cadre has to be built up, induction takes place from the various organised services working in the same Department Ministry and then these services are integrated on the basis of the length of service put in by them on regular basis and it is on this basis alone that the various services functioning under the Chief Controller of Imports and Exports were integrated into one service called Central Trade

(B)

Service now called Indian Trade Service. The amendment of the rules itself enabled the Government to tide over the legal hurdles involved. The rules framed earlier also got amended enabling the Government to induct various incumbents from the other organised wings functioning under the Chief Controller of Exports & Exports under the Ministry of Commerce. The original recruitment rules also, as indicated above, have been amended in order to enable the Government to induct people from other wings functioning under the Ministry of Commerce. The induction also was not done arbitrarily but through D.P.C. The Presidential orders have been issued only after they were found suitable by the D.P.C. and then properly inducted in the various grades on the basis of the qualifying service put in by them.

The Hon'ble Supreme Court in case of Sh. R.S. Makashi and ors. Vs. I.M. Mennon and ors. reported in AIR 1982 SC 101 has held as follows:-

"When personnel drawn from different sources are being absorbed and integrated in a new department, it is primarily for the Government or the executive authority concerned to decide as a matter of policy how the equation of posts should be effected. The courts will be interfere with such a decision unless it is shown to be arbitrary, unreasonable or unfair, and if no manifest unfairness or unreasonable is made out, the Court need not interfere."

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will not sit in appeal and examine the propriety or wisdom of the principle of equation of posts adopted by the Government."

It is well settled that the power to frame rules to regulate conditions of service under the proviso to Article 309 of the Constitution carries with it power to amend or alter the rules retrospectively as was held by the Hon'ble Supreme Court in the case of B.S. Vadera Vs. U.O.I. & Ors. reported in 1968(3) SCR 575, Raj Kumar Vs. U.O.I. & Ors. 1975 (3) SCR 963, K. Nagaraj and others Vs. State of A.P. & Anr. 1985 SCC 523 and State of J&K Vs. Triloki Nath Khosa & Ors. 1974(1) SCR 771.

It is equally well settled that any rule which affects the right of a person to be considered for promotion is a condition of service although mere chances of promotion may not be. The competent authority to lay down criteria for promotion is also competent to change the qualifications. Similarly the authority to make the rules is also competent to change the rules.

An authority competent to create a new service is also competent to indicate the sources from which the initial constitution would be made and how the cadre strength of that service will be determined in the senior and junior scales. That authority is also competent to make rules and regulations to determine the conditions of service. The rules prescribing qualification, eligibility and suitability for promotion are all conditions of service and these

conditions can be changed retrospectively. This rule is, however, subject to a well recognised principle that the rights accrued or benefits acquired under the existing rules cannot be taken away by amendment with retrospective effect i.e. there is no power to make such a rule under proviso to Article 309 of the constitution which affects or impairs/vested rights. This has been held in case of P.D. Aggarwal Vs. State of U.P. reported in 1987 (3) SCC 622. The applicants have failed to show that the amendment of rules has in any way infringed on the rights which they had already acquired. The seniority list is also based on the basis of regular service put in by the various incumbents in the various organised services and the induction has taken place. Creation of a service, determining its cadre strength, formation of a new service, laying down rules for future maintenance, prescribing rules for recruitment and promotion, list of induction from various sources in order to build a political cadre are within the domain of the executive and no arbitrariness or unreasonableness has been shown by the applicants on the part of the respondents in creating the service or in inducting people and assigning them seniority on the basis of length of their regular service and then making their placement in the seniority list. Constitution of service, formation of nucleus by induction and subsequent merger of another wing and then arranging into one integrated seniority list on the basis of their length of service in the respective grades based on proper classification cannot be doubted as arbitrary and

discriminatory and in no way we find that the scheme of the creation of the service or initial induction or subsequent maintenance in any way affects or impairs the accrued rights of the applicants. Whatever has been done is in the interest of service, its constitution, its further expansion. It cannot be a closed cadre with a monopoly of only Joint Controllers/Dy. Chief Controllers functioning under the Ministry of Commerce and since the export promotion cadre etc were already in existence under the same Ministry and under the same Chief Controller of Imports and Exports it was reasonable and feasible to induct them. After hearing the rival contentions and going through the record of service and after having given anxious consideration to the rival contentions, we do not find any arbitrariness or unreasonableness either in the induction of the service or in the preparation of the seniority list and accordingly, the O.A. Nos. 2115/90 & 1603/89 fails and are dismissed, leaving the parties to bear their own costs.

A copy of this order be placed in both the

O.A.

Member(A)

/vvi

(B.K. Singh)

(J.P. Sharma)

Member(J)

Attest

K.S.W.
8/6/85
C.O.C. IV