

## IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A. No. 1714/89  
T.A. No.

199

DATE OF DECISION 10.1.1992.

Shri V. S. Verma

Petitioner Applicant

Shri J. S. Bali, Sr.

Advocate for the Petitioner(s) Applicant

with Shri S. S. Tiwari, Advocate

Versus

Union of India through the

Respondent

Secy., Miny. of External Affairs

Shri N. S. Mehta, Senior

Advocate for the Respondent(s)

## CORAM

The Hon'ble Mr. P. K. Kartha, Vice-Chairman (Judl.)

The Hon'ble Mr. B. N. Dhoundiyal, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? Yes
3. Whether their Lordships wish to see the fair copy of the Judgement? / M
4. Whether it needs to be circulated to other Benches of the Tribunal?

(Judgement of the Bench delivered by Hon'ble  
Mr. P. K. Kartha, Vice-Chairman)

The applicant, who belongs to the Indian Foreign Service (I.F.S.), is aggrieved by his non-promotion or non-grant of Selection Grade even though some of his juniors have been given the same.

2. The officers of the Indian Foreign Service are governed by the Indian Foreign Service (Recruitment, Cadre, Seniority and Promotion) Rules, 1961 which came into force w.e.f. 1.4.1962. There are four grades in the supertime scale, namely, Grades I, II, III and IV. Rule 12 of the said Rules which deals with appointments and promotions of

supertime scale posts, reads as follows:-

"12. Appointments and promotions of super-time scale posts - (1) Except as provided in rule 9, there shall be no direct recruitment to Grade IV or any higher Grade of the Service.

(2) Promotions to Grades I, II, and III of the Service shall be made on merit from among members of the Service holding posts in the next lower grade.

(3) Promotions to Grade IV shall be made by selection on merit from among officers of the Service in the senior scale:

Provided that where a member of any other service is holding a cadre post in the senior scale of the Service under sub-rule (1) of sub-rule (3) of rule 10, the Central Government may promote the officer to hold a Grade IV post of the Service."

3. In the above background, we may consider the case of the applicant before us. He belongs to the 1974 batch of the I.F.S. He was confirmed in the Service in 1977 and was promoted to the senior scale of the I.F.S. in 1978. He is presently working as Deputy Director General in the Council of Cultural Relations attached to the Ministry of External Affairs and holds a post of Deputy Secretary in the I.F.S. Cadre. The next promotional avenue for him is to the post of Director.

4. The applicant states that barring an adverse remark contained in his confidential report for the year 1979, which was subsequently expunged in 1982, he has an unblemished record and that he ought to have been promoted as Director, as was done in the case of some of his juniors who have superseded him. According to him, the relevant

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criteria for such promotion are contained in the Office Memorandum dated 9.12.1987 issued by the Department of Personnel, according to which, it is not necessary to grade the officers for appointment to Selection Grade as 'Outstanding' or 'Very Good' or to give consideration to all officers within the prescribed zone as is done in the case of promotion on selection method. The Selection Grade in Group 'A' Central Services is (a) "Non-functional Selection Grade". Accordingly, appointment to Selection Grade may be made according to seniority based on suitability taking into account the following facts:-

- (a) Overall performance;
- (b) Experience; and
- (c) Any other related matter.

5. The respondents have contended in their counter-affidavit that the applicant was not considered by the Government to be suitable for promotion to Grade IV of the I.F.S. which cannot be called non-functional grade. Appointment to Grade IV is made on the basis of selection on merit judged from the officers' overall performance and experience and any other related matter. They have stated that appointment to Grade IV of the I.F.S. is simultaneously an appointment to the post of Director in a Union Ministry since the headquarters of the Indian Foreign Service Cadre is the Ministry of External Affairs.

6. We have carefully gone through the records of the case and have heard the learned counsel for both the parties. In our opinion, promotion to Grade IV of the I.F.S. (Director) is not a non-functional Selection Grade as in other Ministries/Departments of the Government of India. Promotion to Grade IV of the I.F.S. is regulated by recruitment rules made in exercise of the powers conferred by the proviso to Article 309 of the Constitution. Rule 12 (3) of the relevant rules stipulates that promotion to Grade IV shall be made by selection on merit.

7. In view of the above, the applicant has only the limited right of being considered for promotion to Grade IV. The respondents have done this. The D.P.C. did not find him fit for promotion, while some of his junior colleagues were found fit by it and were promoted.

8. The applicant has made certain allegations against Mrs. Kochhar, High Commissioner for India at Fiji, under whom he has worked in 1979, and Shri A. Goncalves, Indian Ambassador in Egypt under whom he worked in 1982. These allegations have not been substantiated and they have also not been impleaded as respondents in the present application.

9. In the light of the foregoing discussion, we see no merit in the present application and the same is dismissed, leaving the parties to bear their own costs.

B.N. Dholiyal  
(B.N. Dholiyal)  
Administrative Member

16/1/92  
(P.K. Kartha)  
Vice-Chairman (Judl.)