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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. NO. 765/1989

DATE OF DECISION: 5th Oct. 1994.

Sh. M.V.B. Sastry

Vs.

Union of India.

CORAM: Hon'ble Shri J.P. Sharma, Member (J)

Hon'ble Shri B.K. Singh, Member (A)

Counsel for Applicant Shri/Ms. N.Ranganathaswamy

Counsel for Respondent Shri/Ms. Vijay Mehta

1. Whether to be referred to the Reporter? ✓
2. Whether Reporters of Local Newspapers may be allowed to see the judgement? L
3. Whether their Lordships wish to see the fair copy of the Judgement? X
4. Whether to be circulated to other Benches? L


(B.K. SINGH)
MEMBER (A)


(J.P. SHARMA)
MEMBER (J)

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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

...
DA. No. 765 of 1989

Dated New Delhi, this 5th day of October, 1994.

Hon'ble Shri J. P. Sharma, Member (J)

Hon'ble Shri B. K. Singh, Member (A)

Shri M. V. B. Sastry
R/o No. 16/425
Lodhi Colony
NEW DELHI-3

... Applicant

By Advocate: Shri N. Ranganathaswamy

VERSUS

Union of India, through

1. The Secretary to the Government
of India, Ministry of Personnel,
Public Grievances & Pensions
(Department of Personnel & Training)
(C.S.II Section) Nirvachan Sadan
6th Floor, New Delhi.

2. The Secretary
Union Public Service Commission
Dholpur House
Shahjahan Road
NEW DELHI-11

... Respondents

By Advocate: Shri Vijay Mehta

JUDGEMENT

Shri B. K. Singh, M(A)

This DA has been filed against the Office
Memorandum No. 6/2/88-CS.II dated 22.2.89 regarding
filling up of the new grade of Private Secretary
(Rs.3000-4500) introduced in the Central Secretariat
Stenographers Service for officers of Secretaries' rank
to Government of India and equivalent by the Department
of Personnel & Training.

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2. The applicant was a permanent Stenographer 'B' of the Central Secretariat Stenographers Service(CSSS) (Rs.650-1040) in the Department of Company Affairs.

He was appointed to officiate as Private Secretary (Grade 'A' of the CSSS) in the pre-revised scale of pay of Rs.650-1200 in the Department of Company Affairs on ad-hoc basis with effect from 3.11.82(Annexure IV).

3. The Department of Personnel & Administrative Reforms issued an Office Memorandum dated 30.7.1983 (Annexure-V) whereby instructions were issued to the Cadre Authority fixing the zone(i.e. range of seniority) for promotions from Grade 'B' to Grade 'A' of CSSS subject to them fulfilling the eligibility conditions as per the provisions of Rule 11 of CSSS Rules,1969. In the light of the aforesaid instructions, the applicant was appointed after inclusion in select list of Grade 'A' of CSSS for the year 1983 as Private Secretary(P.S.) in the scale of Rs.650-1200 in the Department of Company Affairs on temporary basis with effect from 1.8.83 (Annexure-VI). Subsequently he was appointed substantively in Grade 'A' of CSSS in the Cadre of Department of Company Affairs with effect from 1.8.85 (Annexure-VII). As a result of the recommendations of the Fourth Pay Commission as contained in its report at paragraph 9.39, Grade 'B' and Grade 'A' were merged for

the purposes of career advancement and for providing promotional avenues to the members of the CSSS and thus the post of Private Secretary to the Secretaries to the Government of India and equivalent officers was upgraded to the pay scale of Rs.3000-4500 and this was made effective from 1.1.86. After the introduction of the new grade of P.S. in the scale of Rs.3000-4500 in the CSSS, it was decided to centralise the cadre management and a tentative seniority list was decided to be prepared vide OM dated 16.7.87. The said OM, inter alia, envisaged that pending formulations of rules for giving effect to the recommendations of the Fourth Pay Commission, the Department of Personnel & Training (DoPT) has initiated preparatory work for initial constitution of the new Grade of P.S. at its initial nucleus stage. On the basis of particulars of officers furnished by the cadre authorities a consolidated list of erstwhile Grade 'A' officers was prepared and the same was enclosed with the OM. Part 'A' of the said list comprises of officers who had been substantively appointed to Grade 'A' and the names were arranged in the order of dates of their confirmation in that Grade. The said list was duly circulated amongst the Grade 'A' officers working in the Ministries/Departments. The applicant was placed at serial no.42 in the said Part 'A' of the said list, and his date of regular appointment was shown as 1.8.83 and his substantive appointment as 1.8.85.

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4. The DoPT in the Ministry of Personnel, Public Grievances and Pensions vide their O.M. No.7/23/87-CS.II dated 7.10.87(Annexure-IX) stated that the recommendations of the Fourth Pay Commission in the CSSS, the post of P.S. to the Secretaries to the Government of India and equivalent ranks be upgraded in the scale of Rs.3000-4500 in consultation with the Ministry of Finance Notification No.F.15(7)/1C/86 dated 30.3.87 and accordingly sanction of the President was conveyed to the upgradation of the existing posts of P.S. to the Secretaries to the Government of India and equivalent ranks to the scale of Rs.3000-4500 with immediate effect. The said O.M. directed the cadre authority in which the posts of P.S. were located, be filled up by ad-hoc promotion after the departmental scrutiny on the basis seniority-cum-fitness from erstwhile Grade 'A' Stenographers belonging to the merged Grade 'A' and 'B'(combined). Thus the applicant was promoted to the post of P.S. in the cadre of Department of Company Affairs on the basis of seniority-cum-fitness and as one belonging to the cadre of Department of Company Affairs.

5. The Department of Personnel in the Ministry of Personnel and Training(Respondent No.1) have issued a O.M. No.6/2/88-CS.II dated 22.2.89(Annexure-X). Along with this O.M. a tentative list of officers of merged Grade 'A' & 'B' of CSSS belonging to different decentralised

cadres was prepared for consideration for regular appointment to the new post of P.S. on the basis of new norms, which are as under:-

- "(i) For each year, LDCE candidates may be arranged in order of their ranks/merit position;
- (ii) The promotees against seniority quota may be interpolated in the list at (i) above cadre-wise, keeping the promotees on top of LDCE candidates, maintaining inter-se-seniority in the intact;
- (iii) Where in a particular cadre, there is no LDCE candidate in the relevant year, all such promotees may be arranged on the basis of length of continuous officiation after regular promotion in Grade 'B' maintaining inter-se-seniority in the cadre intact following kicking down principle, if required. Wherever the date of promotion to Grade 'B' is the same, they could be arranged following the date of birth criteria. All promotee officers may be placed below the interpolated list referred to in paras (i)&(ii) above;
- (iv) Stenographers Grade 'B' of an earlier select list shall be placed on the top of those belonging to the later select list."

On the basis of these norms, the said tentative list was prepared of officers of merged Grade 'A' & 'B' of CSSS for promotion to new P.S. in the pay scale of Rs.3000-4500.

The Ministry of Personnel, Public Grievances and Pensions, in this tentative list of merged Grade 'A' & 'B' of CSSS, included some of the candidates belonging to limited Departmental Competitive Examination also, though they did not fulfil the minimum qualifying service of eight years (regular approved service) in Grade 'B' post. The



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applicant, after making repeated representations to the respondents, filed this OA in the Tribunal on in April, 1989. The applicant prays for the following reliefs:-

1. The Respondent No.1 be directed to set aside/ quash impugned O.M. No.6/2/88-CS-II dated February 22, 1989 issued by the Department of Personnel & Training, Ministry of Personnel, Public Grievances and Pensions to which annexed the impugned Tentative List of officers of merged Grade A & B of CSSS for the purposes of promotions to New P.S. Grade in the scale of Rs.3000-4500(Annexure-10).
2. To issue necessary directions to the Respondent No.1 to prepare a proper and correct Eligibility List for the purpose of promotion to the New P.S. Grade without disturbing the placement positions of the applicant as earlier shown in Part-I - List of permanent Grade 'A' Stenographers at Sl.No.42 annexed to Office Memorandum No.10/6/87-CS.II dated 16th July, 1987 of the Ministry of Personnel, Public Grievances & Pensions (Department of Personnel & Training) (Annexure-VIII).
3. To give necessary directions to Respondents not to proceed further for making promotions to the New P.S. Grade in the Scale of Rs.3000-4500 pursuant to and on the basis of the impugned Tentative List of Officers of Merged Grade A&B of CSSS circulated under cover of Office Memorandum No.6/2/88-CS-II dated February 22, 1989 by the Department of Personnel & Training, Ministry of Personnel, Public Grievances & Pensions..."
6. A notice was issued to the respondents who filed their reply and contested the application and grant of relief prayed for.
7. Heard the learned counsel for the applicant, Shri N. Ranganathaswamy and Shri Vijay Mehta for the

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respondents and perused the records of the case.

8. The learned counsel for the applicant has also filed some written statements. He argued that the impugned O.M. of 22.2.89 prepared on the basis of certain new norms is contrary to the service jurisprudence and is against CSSS Rules, 1969 and also and also against CSSS Rules, 1962. It is further argued that this list has taken the length of service from the appointment to the Grade 'B' as the criteria for the purpose of promotion to the post and this is also against the norms of service law and principles of natural justice. It was further argued that the list was prepared on the basis of length of continuous officiation and regular promotion of Grade 'B' CSSS thereby ignoring the length of service of the officers in Grade 'A' CSSS. It was further argued that respondents have created utter confusion in implementing the recommendations of the Fourth Pay Commission regarding merger of Grade 'A' and 'B'. It was pointed out that by adopting new norms as contained in O.M. dated 22.2.89, the rights of the applicant in his post as Grade 'A' has been seriously impaired and he was badly let down to the level of eligibility for promotion to the post of P.S. which was upgraded post of Grade 'A' even after centralisation of the cadre. It was also argued that if the recommendations of the Fourth Pay Commissions were earnestly and rightly

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implemented Grade 'A' & 'B' posts ought to have been merged and a consolidated seniority list ought to have been prepared. This was not done by the respondents due to some vested interest. By adopting new norms they have unsettled the settled matters in the Ministries and various departments and this is bad in law. As a result of this, the applicant's right have been badly affected and he had to be brought down from Sl.No.42 to 121 and it is bad in law and violative of Article 14 & 16 of the Constitution of India. On these grounds the learned counsel for the applicant prayed for quashing the list prepared by the Ministry of Personnel, Public Grievances and Pensions, and to restore the applicant in the original position in the old norms instead of new norms. The learned counsel for the respondents argued that the list enclosed with the O.M. dated 22.2.89 by the DoPT was a tentative list and was circulated with the object of giving an opportunity to the applicant and other similarly situated people to file their representations for correction of errors, if any, in preparation of the list. While issuing the tentative list, it was clarified that tentative list issued along with O.M. dated 16.7.87 by the DoPT and the list issued vide O.M. dated 22.2.89 were based on different criteria and as such the list issued vide O.M. dated 22.2.89 is not to be treated as a recast list. It is also mentioned

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that there were many factors which guided the DoPT to revise the norms in consultation with the UPSC and the Staff Side Association for preparation of common eligibility list and as such it had no nexus with the list issued vide O.M. dated 16.7.89.

9. The respondents vide their O.M. dated 22.2.89 prepared a tentative list of officers belonging to decentralised cadres for consideration for regular appointment to the new post of P.S. in the pay scale of Rs.3000-4500 following certain norms evolved in consultation with UPSC and Staff Association. The respondents have challenged the contents of the OA filed by the applicant. They have pointed out that as a result of the implementation of the Fourth Pay Commission Grade 'A' & 'B' Stenographers were merged into a single cadre and the rules for promotion to the new scale of pay of P.S. were formulated in consultation with the Staff Side of the Departmental Council as well as CSSS Association and UPSC. There was no question of any vested interest guiding the Ministry of Personnel, Public Grievances and Pensions. Since the new P.S. Grades were being introduced for the first time, the Government did adopt a very pragmatic approach and evolved new norms and new eligibility criteria based on a minimum of eight years approved service in the erstwhile Grades 'A' & 'B' (merged Grade 'A' & 'B') of CSSS. While doing so, the prospects and confirmation in service in the



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decentralised Grades in various cadres was also kept in view. The criteria that was evolved is neither arbitrary nor it is irrational. The placement of officers of erstwhile Grades 'A' & 'B' was based upon certain well defined criteria which are available in Sixth Schedule-II with the Rules dated 16.6.89. The respondents have contended that list circulated vide O.M. dated 16.7.87 referred to by the applicant was only a tentative list and was not based upon the criteria finally decided by the respondents. After the tentative list was issued, various representations were received from individual officers as well as the CSSS Association and after due examination of the various issues raised, the respondents took a conscious decision and evolved new norms for preparation of eligibility list in consultation with the UPSC and with the Staff Side of the Departmental Council and CSSS Association. Based on these norms, a provisional list was prepared on 22.2.89 which was later finalised in consultation with UPSC and a final list of regular appointed P.S. was issued vide their orders dated 11.5.89. By those orders, the ad-hoc appointment of P.S. stood terminated from that date. As a result of this list in consultation with the UPSC that his serial no. was brought down from 42 to 121 and accordingly he was reverted from new P.S. Grade of Rs.3000/- 4500 which he was holding on ad-hoc basis to the lower post of Grade 'A' & 'B' w.e.f. 11.5.89 in the scale of

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Rs. 2000-3500 in the Department of Company Affairs as his name was not included in the select list of P.s. which is the subject matter of this dispute.

10. Service law is not a static concept. It is always in the process of evolution and the goal of a socialistic pattern of society is to evolve a norm and criterion which benefits majority of the employees. Government are fully competent to evolve new norms for the benefits of employees on the basis of the recommendations of the Pay Commissions. When amalgamation of pay scales takes place and the pay scales of two categories of posts are merged and a new pay scale is introduced, the Government have a right to evolve new criteria, new norms and new qualifications for filling up the higher posts which have come into being as a result of the recommendations of the expert bodies like the Fourth Pay Commission. These matters are strictly in the domain of the executive as held by the Hon'ble Supreme Court in the case of Umesh Chand Misa Vs ONGC and Ors. AIR 1989 SC.29 which has been followed in a catena of other judgements. Classifications based on rational and reasonable grounds cannot not be dubbed as violative of Article 14 & 16 of the Constitution. Classification has to be done by Government without any interference of Courts and Tribunals especially when new pay scales are introduced as a result of the



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expert bodies like the Pay Commissions. The Ministry of Personnel, Public Grievances & Pensions previously were not concerned directly with the promotion from Grade 'B' to Grade 'A' or promotion of P.S. to Secretaries to the Government of India or equivalent when the cadre controlling authorities were Ministries/Departments and in a decentralised set up due to fortuitous circumstances if juniors can be promoted earlier than the seniors working in other Ministries/Departments. It is only when it was decided to decentralise the cadre that Ministry of Personnel, Public Grievances and Pensions came into the picture and they had to evolve new norms, new criteria in consultation with the Staff Side Council and the other concerned Associations and after discussing the same and consulting the UPSC they finalised an tentative list which was circulated on 22.2.89 and was given a final shape on 11.5.89, as a result of which, the ad-hoc promotion given to the applicant by the Department of Company Affairs, Ministry of Industries was terminated since his position in the list came down from 42 to 121 and on this ranking in the seniority list he was reverted from the pay scale of Rs.3000-4500 to Rs.2000-3500. The policy taken by the Ministry of Personnel, Public Grievances and Pensions, DoPT, evolved a criteria based on a consensus arrived at -after discussions with the Staff side of the Council and Association and on that basis the appointment of P.S. in the new scale of pay and the promotions and reversions took



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place. The applicant was holding the post of P.S. only on ad-hoc and purely temporary basis and this does not confer any vested right to him to make a grievance because this is not a reversion by way of punishment, but this is in the normal course of things when a seniority list has been revised based on new norms and new criteria evolved as a result of very pragmatic approach adopted by the Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training.

11. It is admitted that after decentralisation of the CGSS in 1962, the promotions were based on a combined seniority list, but on the basis of allotment made to the various Ministries/Departments. There is no any seniority list of Stenographers Grade-II as on 1.10.62 of all cadres. Therefore, the assertion of the applicant that he continued to get promotion of a common seniority list is not correct. From 1962 till 1970, promotions were being made entirely cadre-wise except for a brief period from 1963 and 1965 when there

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was directions from the Ministry of Home Affairs restricting promotions within zones. The wide disparities that had resulted as a result of complete decentralisation were reviewed by the Government and only in 1969 formal amendments were made to the CSSS Rules restricting promotions within ranges of seniority to be prescribed by Ministry of Home Affairs, DoPT. Even under this scheme vacancies in a cadre were not filled up by promotions of eligible officers within the range of seniority were not available, then appointments were made from a panel furnished by the Ministry of Home Affairs. In this connection provisions of Rule 11 (3) and para-3 of Sixth Schedule of the CSSS Rules, 1969 at Annexures P.7 and P.9 filed by the respondents showing the common seniority list prepared in accordance with the Central Secretariat Stenographers' Service (Preparation of Common Lists) Regulations, 1971 was only for the purposes of fixing the

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range of seniority and sponsoring persons for whom there were no vacancies in their own cadres, for promotion in other cadres where vacancies were available but no eligible officers were available. It did not entitle officers included therein for promotion in the order for which their names were included in the common seniority list. Appointment to Grade-I of the reorganised CSSS in 1969 at the initial constitution were made for the reason that a large number of vacancies became available and it was thought necessary to give all the eligible officers a fair opportunity. Subsequently promotions were to be made on a completely decentralised basis but the Rules were amended in November, 1969 restricting promotions within ranges of seniority. However, the decentralised pattern was not given up and promotions were taking place due to fortuitous circumstances of vacancies occurring in a department earlier where juniors were working who were benefited by such vacancies but there were seniors in other Ministries/Departments where there were no vacancies. Appointments to Grade-I of the reorganised CSSS at the initial constitution stage were made on a centralised basis under Rule 7(2)(d)(iii) of CSSS Rules, 1969.

13. It is admitted by the respondents that the Civil List of Grade-II Stenographers as on 1.10.62 was being upgraded as stipulated in the (Preparation of

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Common Seniority Lists) Regulation, 1971 for the purposes of fixing ranges of seniority. The promotion of the applicant in Grade 'B' in the Department of Rural Development was based on his seniority in Grade-II in that cadre. He was, however, nominated to the Department of Company Affairs because there was no vacancy in Grade 'B' in the Department of Rural Development. There was a vacancy in the Department of Company Affairs and he was senior enough among all Grade-II officers of all cadres awaiting promotion. The contentions and the arguments of the learned counsel for the applicant advanced during the course of are contrary to the pleadings on record. It is clear from the pleadings on record that the service had been decentralised in 1962 and promotions were also decentralised subject to the exception laid in Rule 7(2)(d)(iii) of the 1969 Rules and Rule 11(4) and Sixth Schedule to the CSSS Rules, 1969. The contention of the applicant that promotions were made on the basis of separate cadre-wise seniority, is not correct. The Zones were only meant to correct imbalance in promotion prospects within the decentralised set-up. The applicant was nominated to the Department of Company Affairs on this basis only. Respondents have contended that the promotions made during the past were likely to be rendered illegal as per the order of this Hon'ble Court. It was also contended by the respondents that there is no

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right of allotment to any particular cadre in the decentralised scheme of 1962 and it was not practicable to give option to all the officers. The allotment to various Departments/Ministries were made in public interest and these were not meant for career advancement of senior/junior officers. They have denied the allegations of discrimination and violation of Article 14 & 16 of the Constitution or the principles of natural justice as baseless. On the basis of the recommendations of the Fourth Pay Commission as produced below:-

"1(1)...It will be desirable to merge Grade A&B of the services, so as to bring about parity with CSS at this level. We accordingly recommend the scale of Rs.200-3500 for the posts in Grade A(Rs.650-1200) and Grade B (Rs.650-1040)..."

2(2)...to provide further satisfactory promotional avenues for the posts of CSSS, we recommend that posts of Private Secretary to the Secretary to the Government of India and equivalent officers may be upgraded and given a scale of Rs.3000-4500..."

While proposing the new scale of pay to PSS, Fourth Pay Commission had also stipulated that it would be a functional grade requiring promotion as per normal procedure. The qualifications and modalities for such promotion would be prescribed in the Recruitment Rules, to be framed by the respondents so that the modalities for such promotions could be completed.

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13. Accordingly the Central Government in the DoPT formulated modalities for such promotion in the new P.S. Grade in consultation with the UPSC and the Ministry of Law and the Recruitment Rules were published in the Gazette of India vide GSR 629 E dated 16.6.89 (Annexure-I).

14. While deciding the conditions of eligibility, various factors like effect of decentralisation in regard to promotion/confirmation etc. were taken into account. The respondents have argued that as a matter of policy, the status of confirmation has since been delinked with the availability of permanent posts as well as the fact that erstwhile Grade 'A' & Grade 'B' were merged and put into a unified scale of pay of Rs.2000-3500 with effect from 1.1.86 which contribute towards taking an overall conscious decision in regard to the introduction of new pay scales for P.S. to Secretaries to Government of India and equivalent ranks. Since the new P.S. Grade was being introduced for the first time, the Government in DoPT took a pragmatic view and decided to formulate an eligibility list of erstwhile Grade 'A' and erstwhile Grade 'B' officers. The list that was circulated on 16.7.87 was based on a different criteria and the list that was circulated on 22.2.89 was based on new criteria evolved by the Ministry of Personnel, Public Grievances and Pensions, DoPT and this list was finalised in consultation with the ^{UPSC} _{UPSC}

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on 11.5.89. Neither criteria evolved for promotion to the new P.S. Grade in the pay scale of Rs.3000-4500 nor the policy decision taken in this regard are flawed in any way. We do not find any arbitrariness or discrimination involved in the action of the respondents. The applicant has miserably failed to show the arbitrariness or unreasonableness in the new eligibility criteria on the basis of which the tentative list was prepared on 22.2.89 and finalised in consultation with the UPSC on 11.5.89. The ad-hoc promotion of the applicant was ordered for a specific period of three months initially which was continued periodically reviewed and with the approval of the competent authority pending finalisation of modalities of filling up of posts on regular basis. It was specifically mentioned in the order that such ad-hoc appointments are subject to termination on completion of the specific three months or the date on which persons selected for regular appointment are made available, whichever is earlier. It is clear from the last order issued that the ad-hoc continuance had the sanction of the competent authority only upto 11.5.89 and was to be terminated thereafter. It was also reiterated that all ad-hoc appointments in the P.S. Grade which were hitherto approved and permitted to be continued upto 11.5.89, shall stand terminated with immediate effect. It is factually incorrect to say that the recommendations of the Fourth Pay Commission

had recommended the creation of new pay scale of Rs.3000-4500 with effect from 1.1.86. P.S. Grade was accepted by the Government vide notification dated 30.3.87. It was mentioned that this will be a functional grade requiring promotion as per normal procedure for which the qualification and modalities will be prescribed in the recruitment rules to be framed for this post. Accordingly, while the modalities of filling up of this post on regular basis was still on, ad-hoc officiation in the newly created posts were allowed on the basis of cadre seniority on decentralised basis subject to fulfilling eligibility conditions. Ad-hoc promotion to the erstwhile Grade of P.S. was not ordered from Grade 'A' officers only but it could be available to the merged Grade 'A' & 'B' according to availability of officers in the various Ministries/Departments. The new criteria and the new modalities came into being after the decentralised cadres were centralised into one centralised Grade of CSSS was controlled by the Ministry of Personnel, Public Grievances and Pensions, DoPT ^{at} it finalised the Recruitment Rules and laid down the criteria for promotion and also on the basis of the criteria prepared a tentative list circulated vide O.M. dated 22.2.89 and finalised in consultation with the UPSC on 11.5.89, the crucial date on which all the ad-hoc promotions were made on the basis of the list finalised based on conscious and well thought criteria evolved in consultation with the UPSC and also in consultation with the Staff Association and Council.

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15. Ad-hoc promotion cannot confer any rights unless the ad-hoc promotion is continued uninterruptedly and it finally results in substantive appointment. It is not so in the present case. The ad-hoc appointments were only for the limited period till the Recruitment Rules and till the modalities for promotion were finalised by the Ministry of Personnel, Public Grievances and Pensions in consultation with the UPSC. Whatever promotions the applicant got were all in fortuitous circumstances in a decentralised cadre and his reversion took place as a result of centralised cadre and as a result of a combined list where he came down to sl.no. 121 in the tentative list circulated in 16.7.87 where he was at sl.no. 42. The centralised P.S. Grade as per the Recruitment Rules is by selection and is totally different from the earlier Grades A&B which were being managed by decentralised cadres on the basis of seniority-cum-fitness. All the rules which have been quoted by the learned counsel for the applicant in the application pertains to the decentralised Grade which are not applicable to the centralised cadre of new P.S. Grade. The Government policies keep on changing and they are for the greatest good of the greatest number and it is within their competence to evolve new criteria, new qualifications and finalise new Recruitment Rules when a new higher pay scale is introduced in a service. There is nothing wrong in this and this strictly falls within

their domain and it cannot be dubbed as arbitrary or unreasonable and dubbed as violative of Article 14 & 16 of the Constitution. There is no arbitrariness and discrimination of any kind involved in the new policy decision and in the new criteria. The applicant will -get promotion in his own turn provided he is meritorious based on the new criteria. The promotion is by selection and therefore he cannot raise any grievance of any kind against this. The claim of the applicant on the basis of tentative list issued on 16.7.87 for promotion in the new P.S. Grade is baseless. The Fourth Commission itself, while recommending the new pay scale had left it to the competent authority i.e. Ministry of Personnel, Public Grievances and Pensions to frame Rules, procedures and evolve modalities for promotions of officers to the new Grade and it was on this basis that the new Recruitment Rules, new criteria and new modalities for selection were evolved and there was a Gazette Notification of the Recruitment Rules and after due deliberation and after consultation with the Staff Association and Council and UPSC, a tentative list was issued on 22.2.89 which was given a final shape on 11.5.89 and ad-hoc promotions automatically stood terminated. The applicant was an ad-hoc appointee and as such his appointment also stood automatically terminated. Since he could not come within the zone of consideration, he was reverted to the pay scale of Rs.2000-3500 from the pay scale of Rs.3000-4500



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which he was drawing on a purely ad-hoc basis till the regular incumbents from the new finalised list were available.

16. Taking a synoptic view of all the facts and circumstances of the case, we do not find any arbitrariness or any discrimination whatsoever, nor is there any infringement of Article 14 & 16 of the Constitution, and accordingly the OA is dismissed as devoid of any merit and substance, leaving the parties to bear their own costs.


(B. K. Singh)
Member (A)


(J. P. Sharma)
Member (J)

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