

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH : NEW DELHI

O.A. No. 1658/88

New Delhi this the 6th December, 1993

THE HON'BLE MR. J.P. SHARMA, MEMBER (J)
THE HON'BLE MR. B.K. SINGH, MEMBER (A)

Shri R.K. Padmanabhan
son of Shri R.o. Kuppuswamy Naidu,
Resident of 12/73-A, Vikram Vihar,
Lajpat Nagar II,
New Delhi-110 024. Petitioner

(By Advocate Shri G.D. Gupta)

VS

Union of India, through
The Secretary,
Government of India,
Ministry of Information and Broadcasting,
New Delhi. Respondents

(By Advocate None)

O R D E R

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

The applicant joined the Central Information Services (CIS) in the junior time scale (Grade II) on 13.6.1984. The offer of appointment dated 8.12.1983 required the applicant to join on 2.1.1984 but by the request made by the applicant by letter dated 26.12.1983 he was granted permission to join six months later. The applicant was placed on probation and he completed the period of probation on 12.6.1986. Alongwith the applicant his batchmates selected joined in January 1984 and they completed two years of probation earlier to the applicant. Before the applicant completed the period of probation, a DPC was held on 9.4.1986 for considering the eligible persons in senior time scale for promotion to Grade I of CIS. Under the CIS rules of 1959 for promotion to Grade I five years service in Grade II was required but that condition has been waived with the result the applicant who

had not completed the period of probation was not considered by the DPC held in April 1986 while his other batch mates who were junior to him were considered and promoted to Grade I. The applicant made a representation relying on OM of Department of Personnel and Training and Ministry of Home Affairs OM dated 13.7.1978 wherein it was provided that if a permission is granted for late joining the service and the permission, so granted, is less than 9 months such a person has to placed alongwith same batch in which he has been empanelled and would not lose the seniority and the rank in the said batch as was shown in the panel.

In this application under Section 19 of the Administrative Tribunals Act, 1985 the applicant has challenged his non-consideration for promotion to Grade I (Senior Time Scale) of the CIS (Now the Indian Information Service), by the DPC held on 19.4.1986 even though the persons who stood junior to him were considered and promoted to Grade I..

The applicant has prayed for the grant of the following reliefs:

- a) To quash the deliberations of the DPC held in April 1986 and subsequent promotion recommended by the DPC on the ground that the name of the applicant was not considered therein and declaration of non-consideration of the applicant was illegal.
- b) Direction to the respondents to hold review DPC as on April 1986 ; and

X2

c) to consider the applicant for promotion to Grade I of CIS and if recommended for selection he should be promoted to Grade I of CIS with effect from the date his juniors were promoted on the basis of the said DPC.

The respondents in their reply have contested the application and have stated that the applicant had not qualified for entry into eligible zone for consideration for promotion to Grade I of CIS since he was still a probationer on the date when the DPC met in April 1986. He was required to complete the probation period for substantive appointment in Grade II of CIS before he could be considered by the DPC for promotion to senior time scale of Grade I of CIS. When the applicant had completed satisfactorily the period of probation in June 1988 he was considered by the next DPC held in December 1988 and he has been given promotion to Grade I of Indian Information Service. The applicant has no case and the application is liable to be dismissed.

We have heard the learned counsel for both the parties at length and perused the record.

By offer of appointment dated 8.12.1983 (Annexure A), the applicant was informed about his appointment in junior time scale on probation for two years and that he should report on 2.1.1984 to Indian Institute of Mass Communication (IIMC), New Delhi. The recruitment rules of 1959 of the Central Information Service lays down minimum length of service required for promotion to various grades. For promotion from Grade II to Grade I, five years

16

continuous approved service is required. There is a proviso that where an officer in a particular grade is considered for promotion, all officers senior to him in that grade shall also be considered for such promotion notwithstanding that they may not fulfil the requirement as to the minimum length of service prescribed above. By the letter dated 9.1.1984 the applicant was also informed that he may join on the post of Grade II by the end of first week of July 1984 thus by virtue of joining late in the batch of 1982 Civil Service examination the applicant could not complete the period of probation. However, certain persons who rank junior to the applicant in the panel of that particular year have been recommended by DPC for promotion to senior time scale. The learned counsel for the applicant argued that had the promotion to the senior time scale be effected after five years as per rules but waiving of the conditions of minimum period of service for promotion placed the applicant in a disadvantageous position. While by exercising the power of relaxation of minimum regular service for promotion to senior time scale the respondents have to treat all the batch mates by the same yardstick. It is also in view of the fact that DOP&T by its OM dated 5.6.1978 has laid down norms regarding delay in joining of candidates recommended by UPSC for appointment to Central Civil Service and the post. It lays down that an extension should not exceed a period of nine months and if the candidate joins within this period then they will have the seniority fixed under the seniority rules applicable to the service/post concerned to which they are appointed without any depression in seniority. It goes to show that for promotion to senior time scale the applicant should not be in a disadvantageous position if he

had otherwise successfully completed two years period of probation. The office order dated 2.6.1985 issued by the Ministry of Information & Broadcasting shows that certain JTs have been promoted to STs. Naturally the name of the applicant is missing from this list. The reply to the representation of the applicant dated 26.6.1986 goes to show that the applicant would be considered for promotion to senior time scale of CIS after completion of his probation period successfully. When the applicant has been informed by the letter dated 19.6.1987 that the period of probation has been terminated with effect from 12.6.1986 in that event his case should have been considered under the same provision of relaxation of rules for promotion to senior time scale as his batch mates have been considered and promoted. It shall be arbitrary and unjust to deny promotion to the applicant when the respondents have relaxed the minimum five years service in Grade II for promotion to senior time scale. We are, therefore, convinced to the stand taken by the respondents is not only arbitrary but unjustified as that will amount to depression of seniority of the applicant in senior time scale.

The contention of the learned counsel for the respondents has been that unless two years of probation is not successfully completed the applicant cannot claim promotion to senior time scale. There is force in this contention and therefore when the period of probation has been completed on 12.6.1986 then at that time the case of the applicant should have been considered by review DPC. This perception has also not been disputed by the learned counsel.

We have also considered the matter from another angle. The persons appointed on the recommendation of UPSC maintain their seniority in order of merit placed in the panel sent by the UPSC to the Government. That for all purposes the seniority inter se of such appointees in the seniority list the applicant was fourth in the batch between Shri S.R. Kar and Shri Shantanu Palodhi who have been promoted to Grade I. The case of the applicant has therefore be considered by the review DPC on the same basis as of Shri Kar and Palodhi and if found fit the promotion to STs he should be given promotion with effect from 12.6.1986 maintaining his earlier seniority of Grade II as recommended by UPSC.

In view of the above facts and circumstances the application is disposed of with the direction to the respondents that the case of the applicant be considered by review DPC on the same basis as was done by the DPC of 1986 with regard to other batch mates of the applicant. and thereafter if the applicant ^{is} found fit he should be given promotion to senior time scale with effect from the date of his completion of probation period i.e. 12.6.1986 with all consequential benefits. The respondents to comply with the directions preferably within a period of three months from the date of issue of this order. *No costs*


(B.K. Singh)

Member (A)


(J.P. Sharma)

Member (J)

mittal