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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH : NEW DELHI.

O.A. No. 539/88

Date of decision 16.8.1993

Shri P.R. Sinha & Ors

Vs

Petitioner

Union of India & Ors

Respondents

Coram: The Hon'ble I.K. Rasgotra, Member (A)

The Hon'ble Mr. B.S. Hegde, Member (J)

For the petitioner

None

For the Respondents

Shri P.H. Ramachandani

(Oral Judgment of the Bench delivered by Hon'ble I.K. Rasgotra, Member (A))

Neither the petitioner nor his counsel is present. As this is an old case we proceed to decide it on merits with the assistance of learned Senior Counsel for the respondents Shri P.H. Ramachandani. The learned counsel referred us to the order dated 10.5.1982 which records that "the proxy counsel for the applicant does not wish to argue the matter on behalf of applicants. In view of this, issue notice to the applicant to file rejoinder affidavit within 3 weeks. List before Deputy Registrar on 19.8.1993." Fresh notice was issued to the applicants on 19.7.1990 and the case was listed on 30.8.1990. Additional time upto 28.9.1990 was allowed to the applicants to file the rejoinder. The matter was again adjourned for 4.10.1990 and even on that date the petitioners did not put up appearance. On 13.8.1993 the case was allowed to remain on Board in accordance with the request made by Shri U.S. Bisht Proxy counsel for Shri G.D. Gupta, counsel for the applicants and the matter has ordered to be listed on 16.8.1993 for final hearing.

[Signature]

We have perused the material on record. The application has been filed on 1.3.1988 by Shri P.R. Sinha, Smt. Sudershan Gupta, Smt. Manju Jhingan, Miss. Vibha Mittal, Miss Jayashree Galgotia, S/shri Ramji Lal, K. Suddharthan, & K.C. Saroj under Section 19 of Administrative Tribunals Act. They are all working as ACSO in the Armed Forces Headquarters, Ministry of Defence, New Delhi. Besides the three official respondents there are 8 private respondents.

The case of the petitioners is that they were directly recruited as ACSO through UPSC on the basis of 1981 Civil Service Examination. They count their approved/reckonable service from 1.10.1982 in accordance with recruitment rules. They all completed their probation on 30.6.1985. They are aggrieved by the promotion of 62 ACSOs to higher grade of CSO on ad hoc basis for a period of six months vide order dated 30.4.1985. The petitioners claim that they were senior to the most of the persons who were so promoted on ad hoc basis, yet they were not considered for promotion on the basis of seniority-cum-fitness. The said ad hoc promotions have been continued from time to time. They admit that the eligibility condition for seeking promotion to the rank of CSO is 8 years' continuous service in the grade of ACSO and further if any junior person in the grade of ACSO was considered for promotion to the grade of CSO, all persons senior to him who have rendered not less than six years' approved service in that grade would also be considered notwithstanding that they might not have rendered 8 years' approved service in that Grade. Since however candidates with

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8 years' continuous service as ACSO were not available, the respondents promoted ACSO with minimum of 4 years service as CSO in relaxation of the recruitment rules. By way of relief they have prayed that promotions made in April 1985 and thereafter, ignoring the petitioners who stood senior to those who were promoted be declared illegal, void, ultra vires, arbitrary, malifide and be set aside and quashed.

The stand of the respondents as put forward in the counter affidavit is that according to the Third Schedule of the Armed Forces Headquarters Civil Service Rules, 1968, temporary vacancies in the grade of CSOs are required be filled in, on selection basis from amongst ACSOs who have rendered not less than 8 years' continuous approved service in the grade subject to the condition, that every 25th vacancy shall be filled from amongst Stenographers Grade 'A' on the same basis. Since ACSOs with 8 years' continuous service were not available in the years 1978, 1979, it was decided to relax the condition (of eligibility of 8 years' of approved service to 5 years approved service for the D.P.C. years 1978-79 to 1980-81 and to 4 years of approved service for the DPC years 1981-82 to 1983-84. The condition of eligibility was not relaxed for the DPC years 1984-85 and onwards. Accordingly ACSOs/Stenographer Gr. 'A' with 4 years approved service as on 1.10.1984 and 1.10.1985 were approved as CSOs on the basis of seniority subject to fitness. According to the AFHQ Civil Service 1968 Rules approved service for the purpose of promotion in the case of persons included in the select list for the grade of ACSO from the 1st October of the year for which the select


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list is prepared. In the case of direct recruits to the grade of ACSO, approved service for the purpose of promotion counts from 1st October of the year following the year of the competitive examination on the results of which they have been recruited. The applicants were appointed to the grade of ACSO based on the civil Service Examination 1981, their approved service for the purpose of promotion to the grade of CSO counts from 1st October 1982. The applicants had thus completed only two years' of approved service as on 1.10.1984 and three years of approved service as on 1.10.1985. They were therefore not eligible for consideration for ad hoc promotion as CSO. Had they completed 4 years' approved service as on 1.10.1984 or 1.10.1985 as did others who were appointed as CSO on ad hoc basis they would have also become eligible for consideration for ad hoc appointment as CSO. It is affirmed that all officers who were appointed as CSO during May 1985 and September 1985 had completed 4 years' of approved service as on 1.10.1984 and 1.10.1985 and were also eligible for consideration. No deviation was made from the Rule as relaxed with competent approval. Regarding the contention of the petitioners that they were senior and since their juniors were considered they should have been considered for promotion, the learned counsel for the respondents referred to the Third Schedule of the 1968 Rules (pps 149/150 of the pps books), where it has been stipulated that such consideration as has been claimed by the petitioner is available only to those candidates


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who have rendered not less than 4 years' approved service. The provisions referred to by the petitioner in support of their case for promotion as CSO as well as those pointed out by the Respondents are germane only in case of regular promotion. We have considered the material on record and the submissions made by the learned counsel for the respondents Shri P.H. Ramachandani. Since the petitioners had only rendered two years or a little over two years service, they were not eligible for being considered for ad hoc promotion as Civil Staff Officer (CSO). The respondents have clearly averred that no one who had rendered less than 4 years' approved service as ACSO was considered for promotion to the grade of CSO on ad hoc basis. The provision that when a junior is considered all those who are senior to him should also be considered for promotion is applicable to regular promotion and that too in case of Members of the SC/ST. This benefit cannot be extended to the petitioners. The petitioner cannot compare themselves with those who had rendered 4 years' of approved service as ACSOs. Since they have not rendered 4 years' continuous service as ACSO, they were not eligible for consideration for promotion as ad hoc C.S.O. In our opinion the OA. is devoid of merit. The same is accordingly dismissed. No costs.


(B.S. HEGDE)

Member (J)


(I.K. RASGOTRA)

Member (A)