



**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A. No. 3045/2016

This the 23rd day of December, 2020

(Through Video Conferencing)

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)**

1. Mr. Rajeev Sharma,
S/o Mr. V. K. Sharma,
R/o C-28ASF, Parsvnath Paradise, Mohan Nagar,
Ghaziabad, Uttar Pradesh 201007,
Presently posted as ...
Aged about 47 years.
2. Mr. Haiom Gaur,
S/o Sh. Lalit Mohan, R/o 49, Sangam Vihar,
Bhatia Road, Ghaziabad, UP,
Presently posted as Deputy Passport Officer,
O/O RPO Ghaziabad, Uttar Pradesh,
(On deputation with MEA),
Aged about 55 years.
3. Mr. Sanjay Kumar,
S/o Sh. Harbans Lal,
R/o T-5, Vivek Apartments,
Shreshtha Vihar, Delhi-92
Presently posted as SRO, TRAI, Delhi,
Aged about 47 years.
4. Mr. R. K. Jha,
S/o Sh. Rama Nand Jha,
R/o 109, New Priyadarshini Apartment, Dwarka,
Presently posted as ADG in Deptt. of Telecom, Delhi
Aged about 49 years.

...applicants

(through Ms. Jasvinder Kaur, Advocate)

Versus

1. Union of India,
Secretary,
Ministry of Information Technology,
Department of Telecommunication,
Sanchar Bhawan,
20, Ashoka Road, New Delhi.

2. UPSC through Chairman,
Dholpur House, Shahjahan Road,
New Delhi.

...Respondents

(through Mr. Rajinder Nischal, Advocate)

ORDER (Oral)**Justice L. Narasimha Reddy:**

The applicants joined the Indian Telecommunication Service by the year 2000. They were promoted to the next grade of Junior Time Scale (JTS) on 30.12.2011 and thereafter, to the grade of Senior Time Scale (STS) between 2014-2016.

2. The applicants contend that there was lapse on the part of the respondents in conducting the DPC for promotion to the JTS between the years 2000 and 2005, and when some of the aggrieved parties approached the Tribunal by filing O.A. No. 1066/2005, a direction was issued on 12.05.2006 to convene the DPC.

3. The applicants contend that by the time the DPC was convened in compliance with the order of this Tribunal, there existed 49 posts of JTS sanctioned, over and above the existing cadre. The grievance of the applicants is that had the selection been conducted for the 49 additional posts also, they would have got the promotion to the JTS earlier, and correspondingly to the STS also. With this background, they filed this O.A. with a prayer to direct the respondents to conduct a review DPC in relation to the promotion to the Group 'B' i.e. JTS for the 49 vacancies under promotion category for the year 2004-05 and to direct the respondents to grant all the consequential benefits.

4. The applicants further contend that once the posts were available, the respondents were under obligation to convene the DPC for promotion in respect of all of them and on account of the failure in this behalf, their valuable rights have been defeated.

5. On behalf of the respondents, a detailed counter affidavit is filed. It is stated that though at one point of time, proposal was mooted for creation of 49 vacancies, the UPSC has slashed down the same to 03 vis-à-vis the promotion category, and accordingly, the selection was made only

against the available vacancies. Various contentions raised by the applicants are denied. The applicants have also filed a rejoinder.

6. We heard Ms.Jasvinder Kour, learned counsel for the applicant and Mr.Rajinder Nischal, learned counsel for the respondents in detail.

7. It was already mentioned that the applicants were promoted to JTS in the year 2011. It is not their case that any juniors to them were promoted to the JTS with effect from any date earlier to that. The grievance of the applicants is that though 49 vacancies were available under promotion category in the year 2004-05, the promotions were not effected for them and that in turn had adversely affected their promotion avenues.

8. In the counter affidavit, the respondents have categorically stated that though proposal was mooted for creation of 49 vacancies, the same was slashed down by the UPSC. Accordingly, three posts were filled. It is not the case of the applicant that any juniors to them were promoted against the available three vacancies. Thereafter, the year-wise vacancies were filled by holding DPC and the turn of the applicants came in the year 2011. They are not able to demonstrate that they are entitled to be promoted with

reference to the vacancies of any earlier period. At any rate, the applicants cannot raise an objection with regard to the promotions, which took place in the year 2004-05, by filing the O.A. in the year 2016.

9. Assuming that there was any lapse on the part of the respondents in filling up the vacancies, two aspects become relevant. The first is that no employee has any right to be promoted. His right is only to be considered for promotion, only whenever the steps are taken by the concerned agency to fill up the vacancy. Secondly, the exercise which the applicants want the respondents to undertake would have its cascading effects on the selection that took place for the past several years, not only in the promotion category but also in the direct recruitment category. That in turn would unsettle the entire administration.

10. Viewed from any angle, we do not find any merit in the O.A. and the same is accordingly dismissed. There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/lg/jyoti/ankit/sd