

Central Administrative Tribunal
Principal Bench

OA No.1498/2020

MA No.1889/2020

New Delhi, this the 14th day of October, 2020

(Through Video Conferencing)

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman

Hon'ble Ms. Aradhana Johri, Member (A)

1. Hardeep Singh Saini (66 years)
Deputy Secretary (Gr A) (Retired)
S/o Late Shri Prakash Singh Saini,
R/o 331-Chandanwari Apartment,
Plot No.8, Sector 10,
Dwarka, Delhi – 110 075.
2. Shri Mrinal Ray Chaudhuri (66 years)
Deputy Secretary (Gr A) (Retired)
s/o late Shri A.M. Ray Chaudhuri,
R/o A-405, New Kanchanjunga CGHS,
Plot No.1, Sector-23,
Dwarka, New Delhi – 110 075. ...Applicants

(By Advocate: Shri A.K. Srivastava)

Versus

1. Union of India through
Secretary,
D/o Personnel & Training,
North Block, New Delhi.
2. Shri G.C. Rout, Under Secretary DOP&T,
(Now Deputy Secretary,
Deptt. Of Consumer Affairs)
New Delhi. ...Respondents

(By Advocate: Sh. Hanu Bhaskar)

ORDER (ORAL)

By Hon'ble Ms. Aradhana Johri, Member (A):

The applicants, who are two in number, were Deputy Secretaries working with respondent no.1 and have superannuated around six years back. They have prayed that a review DPC for Director Select List, 2013 be held and the applicants be considered for promotion. They have also prayed for consequential benefits.

2. The applicants have stated that a list of 120 eligible Deputy Secretaries was sent by the Cadre Controlling Authority as an agenda note to the DPC for promotion against 108 vacant posts of Director. The DPC considered the suitability of only 48 candidates. As per the applicants they were eligible after the relaxation of the eligibility criteria. They have cited certain rulings of the Hon'ble Apex Court, ***Union of India & Another vs. Hemraj Singh Chauhan*** [2010 SC AIR 1682] and ***Pradip Gogoi & Ors. vs. State of Assam & Ors*** [1999 SCC (L&S) 259] in which the Hon'ble Apex Court has held that eligible candidates have a right to lay claim for their consideration for promotion. The applicants have also cited other rulings of the Apex Court to this effect.

3. At the admission stage itself we have heard Shri A.K. Srivastava, learned counsel for the applicant and Shri

Hanu Bhaskar, learned counsel for the respondents, who appeared on advance notice. We also perused the minutes of the Selection Committee held on 20.02.2014 at Annexure-A1.

4. The position as brought out in the minutes dated 20.02.2014, is that all eligible Deputy Secretaries of select list 2007 were included in the Director select list 2012 and were considered for promotion as Director. The panel size for the select list 2013 was fixed at 108 vacancies that were available. Against these vacancies, three Deputy Secretaries fulfilled the eligibility condition of five years approved service in the DS grade. Though there were regular Deputy Secretaries belonging to select list 2009 and 2010 but they were not eligible for consideration for promotion to the grade of Director as they did not have five years approved service in the grade as on 01.07.2013. Therefore, the following relaxation was given:-

“Keeping in view large number of vacancies in the grade of Director, want of eligible officers with requisite five years approved service in Deputy Secretary grade and the recommendations of the Cadre Restructuring Committee, MoS (PP) in exercise of powers under Rule 23 of CSS Rules, has relaxed the eligibility condition for promotion to the grade of Director in favour of the existing Deputy Secretaries of SL 2009 and 2010 as under:-

“5 years approved service, failing which a combined approved service of 10 years’ in the grades of Under Secretary and Deputy Secretary with not less than three years’ regular service in the grade of Deputy Secretary.”

5. After this relaxation, 48 Deputy Secretaries were found eligible for promotion to the grade of Director. A further relaxation was given for Level-F Training under CSS CTP to those of these 48 Deputy Secretaries who had not undergone the said training. The Committee also took note of the litigation in the **Garima Singh's** case. The Committee further made the following observations:-

“3.5 In the meantime, in the exigencies of middle level management in the Central Secretariat, it was decided to make ad hoc promotion to the grade of Deputy Secretary. Accordingly, a provisional list of existing Under Secretaries was prepared by including DR SOs who would be included, subject to being found fit, in the USSL-2003 if Tribunal's order was finally upheld. From this provisional list, ad hoc promotion to the grade of Deputy Secretary is being made since July 2012. The arrangement is purely ad hoc and in the exigencies of Govt. functioning, subject to final outcome of pending litigation. Hence, no regular promotion to the grade of Deputy Secretary has been possible after DSSL-2010 and majority of Deputy Secretaries are functioning only on ad hoc basis.

3.6 These ad hoc Deputy Secretaries are not eligible for promotion to the grade of Director as they are not regular Deputy Secretaries. Even after the pending litigation is over in the HC and if the order of the CAT is finally upheld, USSL-2003 would first be required to be redrawn in consultation with UPSC which is a time consuming exercise. From the redrawn USSL-2003, DSSLs will have to be redrawn from 2010 onwards. None of them would be eligible for consideration for promotion as Director as per the relaxed norm as their regular service would count only from the date of issue of orders for regular promotion after drawing DSSLs.”

6. After deliberation, the Committee came to the conclusion that promotion of officers should be restricted up to Sl. No.48 of Appendix-I to Agenda Note (not provided by the applicant), the applicants being after this serial

number, did not get promotion. The applicants have not been able to show how they were eligible for promotion.

7. The applicants have retired several years back, and it is a settled principle that after superannuation the only ground for considering notional promotion is if a junior has been promoted. No such claim has been made by the applicants.

8. In light of the above, this OA has no merit and is dismissed. MA No.1889/2020 for joining together also stands disposed of. No orders as to costs.

(Aradhana Johri)
Member (A)

(Justice L.Narasimha Reddy)
Chairman

/Ahuja/