

Reserved

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL****CUTTACK BENCH: CUTTACK.**This the **27<sup>th</sup>** day of January, **2021**.

Original Application No. 260/482/2019

**HON BLE MR. SWARUP KUMAR MISHRA, MEMBER (J)****HON BLE MR. ANAND MATHUR, MEMBER (A)**

Shri Prataprudra Satpathy, aged about 56 years Group A , S/o. Shri Kulamani Satpathy, Vill. Borapada, Post-Gahamkhunti, PS-Govindapur, Dist. Dhenkanal at present working as Deputy Registrar, Central Administrative Tribunal, Cuttack Bench, 4<sup>th</sup> Floor, Rajaswa Bhawan, Cuttack, PIN- 753002.

.. Applicant

By Advocate: Mr. C.P. Sahani

**-VERSUS-**

1. Union of India represented through its Secretary to Government of India, Ministry of Personnel, Public Grievance & Pensions, Department of Personnel & Training, Room No. 305, 3<sup>rd</sup> Floor, Lok Nayak Bhawan, Khan Market, New Delhi-110003.
2. Principal Registrar, Central Administrative Tribunal, Principal Bench, 61/35 Copernicus Marg, New Delhi-110 001.
3. Joint Registrar, Central Administrative Tribunal, Cuttack Bench, 4 floor, Rajaswa Bhawan, Cuttack, PIN-753 002

.Respondents

By Advocate: Mr. S. Behera

**ORDER**

**By HON'BLE MR. ANAND MATHUR, MEMBER (A)**

(I). In the instant case Shri Prataprudra Satpathy (applicant) has filed this Original Application stating as under:-

(a) That after being successful in open competitive examination conducted by the Union Public Service Commission, New Delhi, the applicant joined as Assistant in Department of Supply, Ministry of Commerce, New Delhi on 31.08.1990.

(b) That while continuing as such, applicant joined the Central Administrative Tribunal (in short CAT ) on 07.01.1998 on the post of Section Officer on deputation basis through due process of selection and while continuing as such, he was absorbed permanently in the cadre of SO/CO in CAT w.e.f. 14.02.2000.

(c) That as per Recruitment Rules, SO/CO having 08 years regular service qualifies for promotion to the post of Dy. Registrar. As applicant was absorbed in the grade of SO/CO in CAT. w.e.f. 14.02.2000, he had completed 08 years regular service as on 13.02.2008. It is relevant to indicate here that the DPC was held for promotion to the cadre of Dy. Registrar during 2013, effecting promotion

from 04.09.2013 but the case of applicant did not receive due consideration.

(d) That applicant was promoted to the post of Dy. Registrar on adhoc basis w.e.f. 28.10.2015 and thereafter on the recommendation of the DPC held later, the applicant was promoted to the post of Deputy Registrar on regular basis w.e.f.06.04.2016, against the panel year 2013-2014, vide order No.PB/1/3/2008-Estt-I(Pt)(Vol.1I) dated 05.07.2016.

(e) That against the injustice caused in the decision making process in effecting promotion w.e.f. 06.04.2016 against the panel year 2013-2014, applicant submitted representation on 13.10.2017. He had also ventilated his grievances from time to time and pleaded for the benefits of regular status in the cadre of Dy. Registrar as called for against to the draft seniority list vide letter dated 14.09.2018 but he had not received any reply on the said representations.

(f) That meanwhile promotion to the cadre of Joint Registrar was considered during the year 2018 taking the candidatures of the Dy. Registrar promoted on 04.09.2013. But the applicant though a promotee to the post of Deputy Registrar against the vacancy year 2013-2014 and was eligible to be considered for promotion to the post of Joint

Registrar after completion of residency period of five years i.e. w.e.f. 2018, he has been deprived of from his right to consideration because of the delay in holding DPC and effecting promotion on a later date. The applicant suffered a setback in his service career amounting to denial of right of promotion as has been guaranteed under Articles 14 & 16 of the Constitution of India.

(g) That by making representation dated 25.03.2019, he has prayed for removal of injustice in the matter of granting him the actual benefits in the grade of Dy. Registrar as a promotee of the vacancy year 2013-2014 and thereafter consideration of his case for the post of Joint Registrar. His grievance has not been redressed.

(h) That prior to and even after the promotion of the applicant to the post of Deputy Registrar, DPCs have been held in a regular manner in accordance with the DoP&T instruction and promotions have been given effect to the post of Deputy Registrar from the respective panel years whereas there has been deviation of the DoP&T instruction relating to holding DPC in case of applicant; for which the applicant has been made to suffer and continue to suffer for no fault of his which is against all canons of justice, equity and fair play as also the mandate in Articles 14 and 16 of the Constitution of India.

(i) That it is also pertinent to mention that in similar situation; where there was a delay in holding DPC, the Central Administrative Tribunal PB, New Delhi has allowed the benefit of effective promotion from respective panel year with all consequential benefits in the case of Shri Gurumit Singh, Registrar (Retd.) vide order dated 28.04.2017 in OA No. 1849 of 2016 (Para-27) holding that the applicant therein should not suffer due to delay in holding DPC. The case of the applicant being identical in nature, he is entitled to all the consequential service and financial benefits as a promotee against the vacancy of 2013-2014.

(j) That also it would be evident from the letter of Respondent No.2, dated 25.04.2019 that similarly placed 19 officers/officials have been promoted from their respective panel year whereas, the applicant is deprived of the benefit as a promotee of panel year 2013-2014.

(k) That the Central Administrative Tribunal, Principal Bench, New Delhi while deciding the above matter had laid emphasis on the DoPT OM No.22011/9/98-Est.(D) dated 14.12.2000, that the time-frame stipulated in the Model Calendar needs to be strictly adhered to and in case of the prescribed time-frame not being maintained, steps should

be taken to fix responsibility for the lapse. Thus, non holding DPC or delay in holding DPC being not attributable to the applicant, the applicant should not be left to suffer rather he is entitled to all benefits as a promotee against the vacancy of 2013-2014.

(l) That law is well settled in a plethora of judicial pronouncements that similar benefits should be allowed to similarly situated employees and in other words, there should not be any discrimination between similarly placed persons. Therefore, by applying the ratio as enumerated above, the applicant is entitled to the relief claimed in this O.A.

(m) That it is relevant to state that in the cited case, CAT referred to DoP&T OM dated 1989 along with certain other relevant provisions (printed in Swamy's Establishment & Administration - Editon-2014) which deals with regard to frequency at which DPC should meet and preparation of year wise panels by DPC where they have not met for a number of years. Undisputedly, there being sufficient regular vacancies available in the cadre of Deputy Registrar and eligible officers in feeder grade having available to be promoted and having the applicant promoted against one such existing vacancy to Deputy Registrar w.e.f 28.10.2015 on ad hoe basis, there was no

reason not to grant the applicant all benefits retrospectively when he was promoted against the vacancy year 2013-2014. The applicant was no way responsible for such delay in holding the DPC. Thus, non holding DPC in the above circumstances cannot be held to be bona fide exercise of power.

(n) That the applicant apprehends that prior to a decision on his grievance, the respondents intend to fill up the posts of Joint Registrar ignoring the case of the applicant and if it is done then this will lead to multiplicity of litigation. Hence, without any further delay, the applicant files the instant case seeking the reliefs.

(o) That non holding the DPC at regular interval particularly for filling up of the vacancies of 2013-2014 in the grade of Deputy Registrar is against doctrine of promissory estoppels and legitimate expectation.

(p) That the action of the respondents is highly illegal, arbitrary and against the provisions enshrined in Articles 14 and 16 of the Constitution of India.

(II) The applicant has sought the following reliefs:-

(i) To direct to the Respondents to grant him the actual benefits as a promotee against the vacancy year of 2013-2014 w.e.f.04.09.2013 and to appropriately correct the Column No.9 of

the final seniority list in respect of applicant circulated vide letter dated 22.04.2019, under Annexure- A/ 7, accordingly;

(ii) To direct the Respondents to grant him all service benefits as a promotee w.e.f.04.09.2013 against the vacancy year 2013-2014.

(iii) To direct the Respondents to consider his case for promotion to Joint Registrar taking his date of promotion as deputy registrar w.e 04.09, 2013 i.e. against the vacancy year 2013-2014;

And further be pleased to pass any other order/orders as deemed fit and proper;

To allow this OA with costs,

(III) The learned counsel for the respondents has put-forth inter alia following points:-

(a) That as per the Recruitment Rules, SO/CO having 08 years regular service qualifies for promotion to the post of Deputy Registrar. In this connection, it is submitted that next avenue of promotion of SO/CO is to the post of Deputy Registrar. Earlier, PSs were also being considered for promotion to the post of Deputy Registrar by way of lateral entry. Later on the Recruitment Rules were amended on 02.01.2013 by which only SO/COs were eligible for promotion to the grade of Deputy Registrar. The



concept of lateral promotion was delinked after the amendment. According to the amended Recruitment Rules, the post of Deputy Registrar were filled up only from the cadre of SO/CO and the post of PS was given the next avenue of promotion as PPS which was already in existence since 2005. Due to several court cases and subsequent non availability of final seniority list of SO/CO, the DPCs for promotion to the grade of Deputy Registrar could not be convened for number of years. However, DPC was held on 04.09.2013 for considering filling up of 13 (thirteen) vacancies of which 02 posts for the panel year 2008-2009, 04 posts for the panel year 2010-2011 and 07 posts for the panel year 2011-2012 and only 09 officers were promoted vide Office Order dated 10.01.2014 from the date of DPC/assumption of the charge of the post. The last officer promoted in UR category was Ms. Meenakshi Baskaran in the said DPC. There were more officers in UR category senior to the applicant who could not also be promoted to Dy. Registrar at that relevant point of time.

- (b) It is submitted that in the meantime draft seniority list was circulated vide letter No. PB/7/1/2002-Estt. I (Vol.II) dated 21.05.2014 in the grade of SO/CO in which the name of applicant was shown at Sl.No.4. It is pertinent to mentioned that the said draft seniority list dated 21.05.2014 was issued as a result of implementation of the

judgment in K.Selvaraji's case passed by Central Administrative Tribunal, Madras Bench as consequence of revisions in the date of promotion in the grade of Assistants/SOs/COs. But the revised draft seniority list dated 31.12.2013 in the grade of Assistant was challenged before Central Administrative Tribunal, Allahabad Bench in OA No. 148/2014 by Shri Sheo Kumar, the then SO/CO of CAT, Allahabad Bench and now Deputy Registrar in CAT, Allahabad Bench wherein the CAT Allahabad Bench vide order dated 19.05.2014 directed the Respondents not to act upon the said seniority list.

Thus, when the seniority list in the feeder grade of Assistants itself has been put to in abeyance with further stipulation that the same shall not be acted upon till the outcome of the said OA No. 148/2014, it was felt not appropriate to act upon the draft seniority list of SO/CO dated 21.05.2014. Considering the facts that draft seniority list of SO/CO could not be finalized due to orders passed in the above mentioned OA, the official Respondents moved a Misc. Application on 01.07.2014 to modify the Hon'ble Tribunal's order dated 19.05.2014 and to allow the official respondents to fill up the vacant posts of Deputy Registrar in CAT subject to outcome of OA No. 148/2014 for smooth functioning of the Tribunal. But the said Miscellaneous Application was dismissed by the Hon'ble

Tribunal vide order dated 15.09.2014 by observing that the said MA has lost its relevance in view of the order dated 27.05.2014 passed by the CAT, Allahabad Bench.

It is further submitted that although draft seniority list in the grade of SO/CO was already circulated but final seniority list could not be issued due to pendency of OA No.148/2014 filed by Shri Sheo Kumar before CAT, Allahabad Bench. However, considering the number of vacant posts in the grade of DR and for smooth functioning of the Tribunal with the approval of Hon'ble Chairman, a DPC was constituted which finalized its deliberations on 16.10.2015 for promotion of SOs/COs placed at Sl. Nos. 1&3 to 5 namely S/Shri Anjani Kumar Jha, D. J. Panchal, P.Satpathy and L.R.Choudhary to the post of Deputy Registrar as per already finalized seniority list whose position was not to undergo any change even after issuance of final seniority list vide office order No.PB/1/3/2008-Estt.I (Pt.)(Vol.II) dated 28.10.2015 and later on 13 officers including the applicant were promoted to the post of Deputy Registrar on regular basis against vacancies of panel year 2013-2014, 2014-2015, 2015-2016 and 2016-2017 vide Office order dated 05.07.2016. The effective date of regular promotion of the officer was fixed as 06.04.2016 i.e. the date of holding of DPC as the officer was already holding the charge of the post on ad

hoc basis. The Applicant, Shri Satpathy being the senior most SO/CO at that point of time was promoted against the vacancy of 2013-2014 accordingly.

- (c) That it is further submitted that Applicant submitted representation dated 25.03.2019 in which it was stated that had his case for regular promotion been considered by the appropriate DPC in time, he would have been promoted as Deputy Registrar on regular basis w.e.f. 04.09.2013 along with other officers promoted in the same panel year. In the said representation and in the present OA, the applicant has referred the orders of CAT, PB, New Delhi dated 28.04.2017 in OA No.1849/2016 (Shri Gurmit Singh vs UOI and others) wherein the CAT, PB, New Delhi allowed the benefit of retrospective promotion and claimed that he is too in identical situation. He has requested to consider his regular promotion in the grade of Deputy Registrar w.e.f. 04.09.2013 against the panel year of 2013-2014 with all consequential service and financial benefits. The matter was examined and the representation dated 25.03.2019 of the Applicant was forwarded to DoP&T by CAT, PB, New Delhi vide letter dated 25.04.2019 seeking their comments for further action on the representation of applicant and the information sought by the DoP&T vide letter dated 28.05.2019 was also furnished by the CAT, PB, New Delhi vide letter dated 11.07.2019. The DoP&T

considered the representation of Applicant and rejected the same vide letter dated 06/01/2020.

However, it may be stated that in the case of Shri Gurmit Singh vs UOI and others, DPC could not be held for regular promotion to the post of Deputy Registrar in CAT during the period 2003-2007, although there was no court stay on it. Meanwhile, Shri Gurmit Singh was appointed as Dy. Registrar on ad hoc basis w.e.f. 20.10.2003. Later a DPC was held on 28.02.2008 for considering regular promotions to the post of Deputy Registrar for panel years from 2002-2003 to 2007-2008. As per the recommendations of the said DPC, a total of 21 officers including Shri Gurmit Singh (promoted against the panel year 2003-2004) were erroneously granted regular promotion as Deputy Registrar with effect from the date on which they were appointed on the said post on ad hoc basis. Subsequently, some of those officers got further promoted as Joint Registrar on the basis of their said date of regular promotion as Deputy Registrar.

Further, it is submitted that said error related to granting of promotion w.e.f. retrospective effect, as against the policy guidelines on DPC as per which promotions can only have prospective effect, came to notice much later in 2015. Therefore, it was decided to rectify it by revising their

date of regular promotion as Deputy Registrar on 28.02.2008 i.e. the date of DPC, Shri Gurmit Singh challenged the said decision before the CAT, PB, New Delhi in OA No. 1849/2016 which was allowed vide order dated 28.04.2017.

It is submitted that though the order of the CAT, PB, New Delhi was against para 6.4.4 and para 17.11 of DPC guidelines, it was decided to implement the same, considering the peculiar circumstances involved in this case, as in the said case a substantial time was elapsed from the date of his regular promotion as Deputy Registrar erroneously allowed with effect from the date of adhoc promotion and keeping in mind the fact that (1) meanwhile he was further promoted to the post of Joint Registrar; (ii) CAT was facing scarcity in the grade of Registrar as the said posts were not being filled in due to uncertainty related to the eligibility of officers in the feeder cadre of Joint Registrar (iii) Out of 21, 16 officers already retired by that relevant time; (iv) no financial implication was involved in implementing the order of the Hon'ble Tribunal and that (v) there was no major repercussions in the event of implication of the said order of the Hon'ble Tribunal, Thus, implementation of the said order of the Hon'ble Tribunal cannot have a precedent so as to claim the benefit by the Applicant contrary to the policy of the Government.

(d) It is again submitted that in accordance with para 6.4.4 of DoP&T OM No, 220011/5/86-Estt.(D) dated 10.04.1989 promotions will have only prospective effect even in cases where vacancy relates to earlier years. The promotion with retrospective effect is an irregularity against what has been prescribed in para 6.4.4 and para 17.11 of DPC guidelines issued vide DoP&T's OM No, 22011/5/86-Estt.(D) dated 10.04.1989 and DoP&T S OM No. 22011/3/98-Estt(D) dated 17.09.1998. As per para 17.11 the date from which promotion is to be treated as regular is the date on which the officer is actually promoted or the date of meeting of DPC, whichever is later. In case of ad-hoc promotion followed by regular promotion, the date of meeting of DPC is final for promotion in the grade. Since the applicant was already holding the charge of the post of Deputy Registrar on ad hoc basis, thus he was promoted to the post of Deputy Registrar on regular basis from the date of meeting of DPC i.e. 06.04.2016. The Respondents are bound to follow executive orders/policies and the guidelines which are being issued by Government from time to time and not to breach it without any justifiable reason. Hence the present OA is liable to be dismissed being devoid of any merit.

(IV) Learned counsel for the applicant in his rejoinder affidavit to the

counter affidavit filed by the respondents has stated as under:-

- (a) The counter is conspicuously silent regarding the reason for non filling up of 04 left over vacancies in the grade of DR by the DPC held on 04/09/2013, The case of Applicant was not considered in the said DPC. The stand taken by the Respondents that there were more officers in UR category senior to the Applicant who could not also be promoted to DR at the relevant point of time is vague on the face of their own admission in the succeeding paragraph (para-7) that on 16/10/2015, the applicant was promoted on ad hoe basis (order dated 28/10/2015, Annexure-R/6) through duly constituted DPC/DSC and his name stood at Sl. No.3 and on the face of their admission that as on the date of next DPC held on 06/04/2016, the Applicant was the senior most SO/CO.
- (b) The Respondents, to subterfuge the entire issue have referred to the order dated 19/05/2014 & 15/09/2014 of CAT, Allahabad Bench in OA No. 148/2014 which relates to seniority in the grade of Assistant, and as per the order of CAT, Allahabad Bench, respondents were under obligation not to act upon the draft seniority list of Assistant dated 31/12/2013, The order of CAT, Allahabad Bench has no relevance to the present case at all.



- (c) The delay in holding DPC has not been denied by the Respondents, The reason for delay in holding DPC assigned and explained above is no reason in eyes of law. This assertion has not been denied either in the order of rejection or in the counter. Thus, as per the law this assertion is deemed to have been admitted.
- (d) Here in the present case there was delay in holding DPC contrary to the instructions of the DoP&T, for which applicant was made to suffer. Thus, as per the said decision the applicant is entitled to the relief claimed in this O.A.
- (e) As regards the stand taken in last sub para to para-8 of the counter, the Respondents have fairly admitted that Shri Gurmit Singh was granted the benefit of promotion from the respective panel year notwithstanding the provisions of paragraph 6.4.4 and paragraph 17.11 of the instruction of DoP&T accepting the principle laid down by the Hon'ble Bench that the applicant therein should not suffer due to delay in holding DPC.
- (f) Further kind attention is invited to the letter dated 25/04/2019(Annexure-R/7) which would go to show that the benefit of promotion to Deputy Registrar from the respective panel year have been extended to 19 officers as per the order of the CAT, PB, New Delhi in the case of

Gurmit Singh vs. UOI and others (supra). These aspects have fairly been admitted by the Respondents in their counter in the last sub Para of paragraph 8.

- (g) It may be stated that when the Respondents as a principle have accepted the decision rendered by the CAT, PB, New Delhi and extended the benefits to other similarly placed 19 officers, denial of the benefit to the Applicant on the ground that the decision cannot be treated as a precedent is unknown to law/against the law.
- (h) The Applicant states that the Applicant is already in the scale of Deputy Registrar w.e.f, 07/01/2010 by way of MACP having spent 12 years in the cadre of SO/CO and, thus, by promotion to DR against the panel year 2013-2014 (04/09/2013) would not burden the exchequer and resultantly there shall have no financial implication in case of extension of the benefit of promotion with effect from 04/09/2013. (ii) The Applicant being the senior most UR category Deputy Registrar, the grant of benefit against panel year 2013-2014 would not have any adverse effect on the interest of any other officers and that effect of promotion of the applicant w.e.f. 4.9.2013 will not affect the seniority list in the cadre in any manner. (iii) Further, as per the knowledge of the Applicant, there are 04 posts of Joint Registrar lying vacant long since. The Applicant can be

considered for promotion against the earliest vacancies of panel year 2018-2019 by reckoning the period of residency as a regular promote to DR in the panel year 2013-2014 w.e.f, 4.9.2013 for the interest and smooth functioning of the organization.

- (i) That it is not in dispute that as on 04/09/2013, the applicant was fully qualified and eligible for consideration of his case for promotion to the post of Deputy Registrar, on regular basis, as per Rules. It is also not in dispute that sufficient regular vacancies in the cadre of Deputy Registrar were available as on the said date.

It is also not in dispute that the respondents were under obligation to hold the regular DPC for consideration of the cases of the applicant and others for promotion to the post of Deputy Registrar, on regular basis, in respect of the vacancies meant for the year 2013-2014. It is also not the case of the respondents that there was any specific stay prohibiting them from holding the DPC for promotion to the post of Deputy Registrar for the vacancy year 2013-14 on regular basis during the said period. Hence, in view of the facts of the instant case and the above referred legal position, the applicant ought not have been deprived of his legitimate right for promotion as Deputy Registrar, on regular basis, w.e.f. 04/09/2013, due to the delay in conducting the DPC at the appropriate time by the

respondents as it is trite law that any arbitrary action on the part of the executive resulting in sufferings to the Government employee is impermissible in law being violative of Article 14 of Constitution.

(V) In the Written Notes of arguments filed by the applicant, the learned counsel for the applicant has brought out the facts of the case as enumerated above and has brought out a new point, which has been taken out from the counter affidavit filed by the respondents.

(a) That as per the new /amended Recruitment Rule for the post of Deputy Registrar which came into force w.e.f 31.12.2012, the Section Officers (SO) and Court Officers (CO) having six years of regular service are eligible for promotion to the cadre of Deputy Registrar. Thus the feeder cadre for the post of Deputy Registrar after 31.12.2012 is Section Officer/Court Officer. This fact has been admitted and mentioned by the respondents in Para-6 of the counter saying that according to the Amended Recruitment Rules, the post of Deputy Registrar were filled up only from the cadre of SO/CO and the post of Private Secretary (PS) is given the next avenue of promotion as PPS which was already in existence since 2005.

This Hon'ble Tribunal in its order dated 28.10.2020 directed the respondents to submit the documents regarding proceedings of the DPC meeting held on 04.09.2013, The documents relating to the DPC held on 04.09.2013 clearly reveals that the officials from the cadre of Private Secretaries (PSs) were promoted to the cadre of Deputy Registrar who were no more eligible for promotion to the cadre of Deputy Registrar according to the Recruitment Rules came into force w.e.f 31.12.2012.

The law is well settled that the DPC is to consider the eligibility of the officials within the zone of consideration on the basis of the Recruitment Rule which is in force. Thus when the amended recruitment rule came into force w.e.f 31.12.2012 and according to which the Private Secretaries (PSs) are not eligible for promotion to the cadre of Deputy Registrar then the moot question is that how the private secretaries were promoted to the cadre of Deputy Registrar through the DPC held in the year 2013 violating the recruitment rule in force and ignoring the eligible SO/CO including the applicant.

Further, as it is admitted by the respondents in the counter at Para 6 that for the cadre of PS the

promotion avenue is different and they are to be promoted to the cadre of PPS from the cadre of PS. When the promotional hierarchy of the cadre of PS and CO/SO has been separated, then giving promotion to the cadre of Deputy Registrar from the cadre of PS is like trespassing the promotional avenue of the cadre of SO/CO which is quite arbitrary and illegal considering the recruitment rule.

Thus this Hon'ble Tribunal may kindly take note of the serious illegality that while the officials from the cadre of PS were not eligible for promotion to the cadre of Deputy Registrar in accordance with the Recruitment Rules came into force w.e.f 31.12.2012 then how they were considered eligible and promoted through the DPC held on 04.09.2013.

- (b) That, in the above facts and circumstances, taking into accounts the irregularities and illegalities committed by the respondents in holding DPCs for promotion to the cadre of Deputy Registrar and also in appreciation of the fact that the applicant has been regularly promoted to the cadre of Deputy Registrar against the clear vacancies of the panel year of 2013-14, the applicant prays this Hon'ble Tribunal to be graciously pleased to allow this O.A directing the

respondents to give the applicant notional Promotion since the vacancy year 2013 i.e from the crucial date of promotion 01.04.2013 and allow consequential eligibility for consideration of the future promotions of the applicant in the hierarchy.

(VI) During the course of hearing on 08.12.2020, learned counsel for the applicant had raised a new point regarding the ineligibility of Private Secretaries for consideration for the post of Dy. Registrar. He has brought out a new cause of action which was not part of the original application. Learned counsel for the applicant stated that this was a crucial point and is relevant to the issue. It was clarified to him that at this stage, he can either amend the O.A. or file a fresh O.A. Learned counsel for the applicant was not inclined to do so.

(VII) After hearing learned counsels for the applicant and the respondents and the material on record, it is felt that the prayer of the applicant in the instant O.A. has been considered by the respondent No. 1 i.e. Department of Personnel and Training and a detailed reply has been given vide letter No. A-12013/2/2016-AT dated 6.1.2020 wherein the points raised by the applicant have been considered in detail and then the decision of DOP&T has been conveyed to Central Administrative Tribunal, Principal Bench, New Delhi. Inasmuch as the prayer of the applicant has been given due consideration and replied to by respondent No.1, relief in the instant O.A. has been taken care of. The new point regarding alleged ineligibility of Private Secretaries,

which has been picked up by the learned counsel for the applicant from the counter affidavit filed by the learned counsel for the respondents, can be considered either by way of filing an amended OA or by filing of fresh O.A.

(VIII) During the course of hearing on 08.12.2020, learned counsel for the applicant was not inclined to take either of these actions. This has been corroborated by the Written Notes of Argument filed by the applicant on the next date i.e. 09.12.2020.

(IX) In face of the above, we find that the prayer of the applicant in the instant OA has been examined in detail by the respondents and finally decided by the respondent No.1. Since the learned counsel for the applicant insists on raising a new cause of action, which is not maintainable without his filing an amended/fresh O.A., this O.A. is liable to be dismissed. Accordingly O.A. is dismissed. No order as to costs.

<b>(ANAND MATHUR)</b>	<b>(SWARUP KUMAR MISHRA)</b>
<b>MEMBER (A)</b>	<b>MEMBER (J)</b>

Manish/-