

## NEW DELHI

198 6.

October 22, 86

**Petitioner**

**Advocate for the Petitioner(s)**

## Versus

**Respondent**

### **Advocate for the Respondent(s)**

**CORAM :**

**The Hon'ble Mr. Justice K. Madhava Reddy, Chairman.**

**The Hon'ble Mr. Kaushal Kumar, Member.**

1. Whether Reporters of local papers may be allowed to see the Judgement ? Yes
2. To be referred to the Reporter or not ? Yes
3. Whether their Lordships wish to see the fair copy of the Judgement ? No
4. Whether to be circulated to other Benches ? No

(Kaushal Kumar)

Member

22.10.1986.

(K. Madhava Reddy)  
Chairman

Chairman

22.10.1986.

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
DELHI.

REGN NO. OA 865/86.

October 22, 1986.

Shri D.S.Kapur .....

Applicant

Versus

Union of India .....

Respondents.

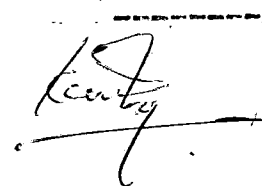
CORAM:

(Shri Justice K.Madhava Reddy, Chairman.

Shri Kaushal Kumar, Member.

(Judgment of the Bench delivered by  
Shri Justice K.Madhava Reddy, Chairman).

The applicant who is an Office Supdt. Grade-I in the Directorate General, Defence Estates, Ministry of Defence, New Delhi claims that he was entitled to be given selection grade w.e.f. 1.8.1976. He made representation in this behalf in the year 1982. That was turned down on 30.8.1985 and he was intimated by the Government of India, Ministry of Defence (DGDL&C) that his case was taken up with the Finance Ministry and that the Ministry of Finance has not agreed to grant Selection Grade in the instant case as the condition of recruitment of 75% by direct Recruitment is not fulfilled. He made a further representation against the rejection of his claim. That was forwarded for reconsideration to the Ministry of Defence and once again that was turned down and communicated to the applicant on 5.12.1985. A further representation from the applicant <sup>which</sup> was forwarded to the Ministry of Finance was also turned down on 12.5.1986. Thus the belated claim of the applicant for Selection Grade w.e.f. 1.8.1976 comes before the Tribunal in October, 1986 only, because the respondents chose to entertain the applicant's time barred representations and forwarded the same for reconsideration. In fact the claim had



become stale. Since the respondents have entertained the representations and considered it on merits and disposed it off on 12.5.1986, this petition is well within time; however, we do not find any merit in the Applicant's claim.

The instructions of Government of India, Ministry of Finance (Department of Expenditure) O.M. No.F.7(21)-E.III(A)/74 dated 10.1.1977 regarding grant of Selection Grades in Groups 'C' and 'D' cadres in implementation of the recommendations of the Third Pay Commission inter alia lays down:

"Posts which are filled up by direct recruitment to an extent of not less than 75% would alone qualify for Selection Grade. In cases where the posts are filled partly through a limited competitive examination which is not confined only to the employees serving in the immediately lower grade, but open to several other categories also, the filling up of such vacancies may be treated as cases of direct recruitment against the stipulated percentage. This does not, however, preclude consideration of other cases where the aforesaid condition of eligibility is not satisfied if it is established that there is acute stagnation".


Under the said instructions, the applicant would have qualified for Selection Grade if at least 75% of the posts were filled by direct recruitment. Admittedly this condition is not fulfilled in this case. The contention that the instructions contained in the latter part of the sub paragraph (i) does not preclude the government from considering even other cases for grant of selection grade, if it is established that there is acute stagnation, entitles the applicant to the grant of Selection Grade, is unacceptable. This portion of the instruction do not vest any right in the applicant or impose any obligation on the respondents to consider other cases. That lies in

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their discretion. Having regard to exigencies of the various services, the Respondents may exercise their discretion one way or the other. That by itself does not render the action of the respondents discriminatory or arbitrary. The refusal of Selection Grade to the applicant does not contravene the instructions relied upon by him. This application has no merits and it is accordingly dismissed.



(Kaushal Kumar)  
Member  
22.10.1986.



(K. Madhava Reddy)  
Chairman  
22.10.1986.