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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.No.CA 4/87

Date of decision: 07.04.1992

Shri Ram Raj Misra & Others

...Applicants

Vs.

U.O.1. through the Ministry of
Home Affairs, Department of
Official Language & Others

...Respondents.

For the applicants

...Shri Manoj Swarup
with Ms. Lalita
Kohli, Counsel
for applicant Nos.
1 to 6, 13, 14 and
17.

Applicant No.3 in
person.

Applicant No.7
through Ms. Nitya
Ramakrishna,
Counsel

None for the
remaining
respondents.

For the Respondents

...Mrs. Raj Kumari
Chopra, Counsel

CORAM:

THE HON'BLE MR. P.K. KARTHA, VICE CHAIRMAN(J)

THE HON'BLE MR. B.N. DHOUNDIYAL, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgment? *Yes*
2. To be referred to the Reporters or not? *Yes*

JUDGMENT

(of the Bench delivered by Hon'ble Shri P.K.
Karttha, Vice Chairman(J))

All the 17 applicants before us are working as Assistant Directors (Official Language) in various Ministries/ Departments. Respondent No.1 is the Union of India, Ministry of Home Affairs, Department of Official Language. Respondent Nos. 2 to 46 are also Assistant Directors(Official Language) working in various Ministries except that respondent No.3 and 10 are working as Deputy Directors. The grievance of the

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applicants ~~xx~~ relate^a to the fixation of their seniority at the initial constitution of the Central Secretariat Official Language (CSOL) which was constituted by the CSOL Service(Group 'A' and Group 'B') Rules, 1983 (1983 Rules). They have not challenged the validity of the 1983 Rules but have contended that the respondents have operated the Rules wrongly.

2. At the outset, it may be stated that in addition to respondent No.1 (Union of India) some of the respondents have filed separate counter-affidavits. During the pendency of this application, some of the parties to the application have also retired on attaining the age of superannuation.

3. Prior to the promulgation of the 1983 Rules, there was no common cadre for the officers dealing with the work relating to Official Language. However, Hindi Posts of various categories had been created in various Ministries/Departments and their attached offices and persons had been working against those posts till the 1983 Rules came into force. The 1983 Rules superseded the corresponding existing Rules.

4. The 1983 Rules were made pursuant to the recommendation of the Central Hindi Committee.

5. Under the scheme of the 1983 Rules, there are three categories of posts with the following designations and scales of pay:-

	Scales of pay	
	Pre-revised	Revised
<u>Group 'A'</u>		
Grade I(Director)	Rs.1500-1800	Rs.3700-5000
Grade II(Dy. Director)	Rs.1100-1600	Rs.3000-4500
<u>Group 'B'</u>		
Grade III(Asstt. Director)	Rs.650-1200	Rs.2000-3500

Group 'C'

Grade IV (Senior Hindi Translator)	Rs. 550-800	Rs. 1640-2900
Grade V (Junior Hindi Translator)	Rs. 425-700	Rs. 1400-2600

6. In the present application, we are concerned with the initial constitution of Grade III of the CSOL Service. The 1983 Rules provide for the constitution of a Selection Committee to make selection of candidates eligible for induction into Grade-III of the Service at the initial constitution. The Selection Committee is headed by the Chairman or a member of the UPSC, apart from two other representatives not below the rank of Joint Secretary to the Government of India as its members.

7. As regards Grade III of the Service, the procedure to be followed by the Selection Committee is set out in Rule 6(3) and (4) of the 1983 Rules which are as under:-

- "(3) The Selection Committee constituted under sub-rule (1) above shall hold selection for determining the suitability of the departmental candidates holding posts being included in Grade of the Service on regular basis as well as those holding these posts on ad hoc or deputation basis from the date the last departmental candidate was appointed on regular basis and prepare a list arranged in the order of merit, of officers considered suitable for an appointment to Grade III of the Service at its initial constitution. These officers shall be placed senior to those selected in the manner specified in sub-rule (4).
- (4) For making appointment against the remaining vacancies if any, in Grade III at its initial constitution, the Commission shall hold selection for determining the suitability of departmental candidates holding posts being included in Grade III of the Service, other than those mentioned in sub-rule (3) above and also those holding posts in Grade IV of Central Secretariat Official Language (Group 'C' Posts) who have put in a minimum of 3 years regular service in the scale of Rs. 550-800(900) and prepare a list, arranged in the order of merit, of officers considered suitable for appointment to Grade III of the Service at its initial constitution. These officers shall be placed en-bloc junior to those selected under sub-rule (3)".
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8. The respondents collected the particulars of incumbents of posts of various categories to be placed before the Selection Committee. These particulars were contained in 5 Lists - List I pertaining to the post of Director or equivalent post, List II pertaining to the post of Senior Hindi Officer or equivalent post held by persons on regular basis or persons who hold lien against those posts, List III pertaining to the post of Senior Hindi Officer or equivalent post held by persons on deputation/ad hoc basis, List IV pertaining to post of Hindi Officer or equivalent post who were being held on regular basis and List V pertaining to post of Hindi Officer or equivalent who were being held on deputation/ad hoc basis. For the purpose of the present application, we are concerned only with Lists II and III only.

9. There had been arguments at the Bar as to whether the aforesaid lists could be viewed as Seniority List or not. The respondents have contended that these lists merely set out the particulars of the persons collected from the various Ministries/Departments etc. to be placed before the Selection Committee and that it is not a Seniority List as such. The applicants as well as the respondents have annexed copies of the Lists and there are discrepancies between the two.

10. We have gone through the records of the case carefully and have considered the rival contentions. After the Selection Committee considered the suitability of the

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applicants for induction to the initial constitution of Grade III of the CSOL Service, the respondents issued a notification on 17.12.1985 in which 45 persons have been shown as appointed to Grade III (Assistant Director) under Rule 6(3) and 55 persons under Rule 6(4) of the 1983 Rules. It is this notification which is under challenge before us.

11. The grievance of the applicants is that applicant Nos. 1 to 11 were appointed to Grade III erroneously under Rule 6(4) while applicant Nos. 12 to 17 had not been inducted to Grade III at all. Those selected and appointed under Rule 6(3) would be senior to those selected under Rule 6(4).

12. Another grievance of the applicants is that the respondent Nos. 17 to 46 did not appear in List IV or List V but were inducted under Rule 6(4). However, applicants have been shown junior to them in the notification dated 17.12.1985. They have also challenged the consideration of the cases of respondent Nos. 2 and 3 for induction in Grade-II under Rule 6(3) of the 1983 Rules.

13. The applicants have also called in question their appointment with effect from 1.2.1985 which, according to them, has adversely affected their chances of promotion to the next post of Deputy Director. According to them, the CSOL Service ought to have been formed from the date of notification of the 1983 Rules, which is 9.9.1983.

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14. The respondents have denied the aforesaid contentions and submissions. According to them, respondent Nos. 2 and 3 were considered under Rule 6(3) as they were holding posts included in Grade III on ad hoc/deputation basis with effect from 5.7.1977 and 25.8.75 respectively. Respondent Nos. 4 to 46 were holding posts included in Grade III of the Service.

15. The respondents have stated that persons holding posts on regular basis and those who had been appointed on ad hoc/deputation basis till the date of appointment of the last regular persons were considered under Rule 6(3). The remaining ad hoc/deputationists Hindi Officers which included the applicants as on 19.9.1981 were considered together with Senior Translators having three years regular service as on 19.9.1981 under Rule 6(4) of the 1983 Rules. The significance of the crucial date of 19.9.1981 is that it represents the date of appointment of respondent No.3. They have annexed to the counter-affidavit Annexures R-II, R-III and R-IV containing the list of departmental candidates who were to be considered by the Selection Committee.

16. The respondents have stated that the last candidate appointed on regular basis was Shri Badri Singh on 7.3.78 and that persons from S.Nos. 1 to 36 ^{of Annexure E-III} alone were eligible to be considered under Rule 6(3).

17. According to the respondents the applicants were not eligible and were not holding their posts from the crucial date of 19.9.1981 but only from subsequent dates.

18. At the time of initial constitution, 105 posts were available and there were 114 eligible candidates. The seniority of 5 departmental candidates from Grade IV was pending finalisation at the time of holding of the meeting of the Selection Committee. There were only 100 eligible candidates. The applicant Nos. 11 to 17 did not come within the said 100 in the order of merit and were not appointed to Grade III by the impugned order dated 17.12.1985. Later on, the 5 departmental candidates left out earlier and applicant Nos. 11 to 17 had also been recommended by the Selection Committee.

19. On a plain reading of Rule 6(3) and (4) of the 1983 Rules, it would appear that induction to the initial constitution of Grade III is on the basis of selection by a duly constituted Selection Committee headed by the Chairman or a member of the UPSC. Under Rule 6(3), the suitability of the departmental candidates holding posts being included in the Grade of the Service on regular basis as well as those holding these posts on ad hoc or deputation basis from the date the last departmental candidate was appointed on regular basis, has to be considered by the Selection Committee

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for selection in the order of merit. Under Rule 6(4), the suitability of the remaining departmental candidates holding posts included in Grade III of the service and also those holding posts in Grade IV of the service who have put in a minimum of three years regular service, has to be considered by the Selection Committee for selection in the order of merit. Persons who have been ^{selected} under Rule 6(4) would en bloc be placed junior to those selected under Rule 6(3).

20. In our opinion, there is no legal or constitutional infirmity in the procedure followed by the respondents for the initial constitution of Grade III of the CSOL Service. The suitability of the departmental candidates was considered by the Selection Committee under Rule 6(3) or 6(4) depending on the basis of list furnished to it by the respondents after collecting the relevant particulars and verifying them. We are also not impressed by the argument of the applicants that their chances of promotions have been adversely affected by not constituting the service with effect from the very day the 1983 Rules were promulgated. It is well settled that mere chances of promotions are not conditions of service. While constituting a new service under new rules, it would be an impossible task to constitute the same on the very day the Rules are promulgated. The Union of India has

submitted in its written submissions that respondent Nos.2 and 3 were never appointed on regular basis to the post in Grade III of the service. This has been clarified by them in their reply to MP-2242/90. It, however, appears that respondent No.3 was posted with the Border Security Force who had confirmed him on 4.5.1981. The confirmation was to be on the basis of the Recruitment Rules. The Recruitment Rules had not come into existence at that point of time. There is nothing on record to indicate that the suitability of respondent No.3 for confirmation was considered by a duly constituted Selection Committee. It appears that the Border Security Force had regularised and confirmed respondent No.3 on the very same day, i.e., 4.5.1981. In the written submissions filed by the Union of India they have questioned this on the ground that under the normal rules, a person is confirmed only 2 years after the date of regularisation.

21. There is nothing on record to indicate that the applicants had been holding posts included in Grade III of the service on regular basis so as to make them eligible for consideration of induction to Grade III of the CSOL Service at its initial constitution.

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22. In the light of the foregoing discussion, we see no merit in the present application and the same is dismissed.

There will be no order as to costs.

All MPs filed in this case are disposed of accordingly

B. N. Dhoundiyal
(B.N. DHOUNDIYAL)
MEMBER (A)

P.K. Kartha
7/4/92
(P.K. KARTHA)
VICE CHAIRMAN (J)

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