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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

OA NO.552/87

DATE OF DECISION: 9.7.90

SHRI A.A. SHIROMANI & OTHERS

- APPLICANT(S)

VERSUS

UNION OF INDIA & OTHERS

RESPONDENTS

SHRI T.C. AGGARWAL

ADVOCATE FOR THE APPLICANT(S)

MRS. RAJ KUMARI CHOPRA

ADVOCATE FOR THE RESPONDENTS

CORAM:

THE HON'BLE MR. T.S. OBEROI, MEMBER (J)

THE HON'BLE MR. I.K. RASGOTRA, MEMBER (A)

J U D G E M E N T

[Delivered by the Hon'ble Mr. I.K. Rasgotra Member (A)]

S/Shri A.A. Shiromani and R.N. Tivary, Joint Directors, Publication Division and Shri J.P. Uniyal, Deputy Chief Editor, Collected Works of Mahatma Gandhi (C.W.M.G.) and Shri S.K. Sundar, Chief Editor, Akashwani Group of Journals, have filed this application under Section, 19 of the Administrative Tribunals Act, 1985, challenging their delayed absorption in the

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Central Information Service (C.I.S.) and wrong fixation of seniority from the date of inclusion in Service when they were eligible for inclusion in the C.I.S. at its initial stage of the constitution.

2. The applicants were appointed in the Project of (C.W.M.G.) set up in 1956 under the direction and control of Ministry of Information and Broadcasting. Their appointments were made to various grades in accordance with the procedure laid down by the Chairman of the Advisory Board and approved by the Ministry of Information and Broadcasting in consultation with the Union Public Service Commission (U.P.S.C.). The Central Information Service was constituted on 1.3.1960 under Rule 3 of the Central Information Service Rules, 1959 but the applicants were not included in the C.I.S. at the stage of initial constitution. However, later the C.I.S. Rules were revised in 1967 and the matter of inclusion of the applicants in the C.I.S. was referred to the U.P.S.C. in 1976. The U.P.S.C. cleared the proposal for inclusion of the applicants in the C.I.S. after interview etc. vide letter No.F-1/4/(46)/76A-II-AU III dated 11th May, 1977. Thereafter in accordance with Rule 6B of C.I.S. Rules 1959, the posts held by the applicants were included in Schedule 4 of the C.I.S. by way of amendment to C.I.S. Rules published in the Gazette of India on 3rd June, 1978 and the applicants appointed in Grade I of C.I.S. counting seniority w.e.f. 3rd June, 1978.

3. The case of the applicants is that the date of U.P.S.C.'s letter containing the recommendation viz. 11th May, 1977 should be taken as the date of their direct



recruitment/promotion into the service in terms of Article 26(88)2 of Civil Services Regulations Vol. I (page 77 Chaudhri's compilation 13th Edition) that the service rendered earlier in comparable post should be given weightage for fixing their seniority. They have also relied on G.P. Deval Vs. Chief Secretary of U.P. (1984 (4) SC-329) to support the contention for giving weightage of service, and various pronouncements of the Central Administrative Tribunal laying down that the services rendered on adhoc basis followed by regularisation should be counted for purposes of seniority. They have also cited the following judicial pronouncements to further fortify their claim:-

1973 (1) Patna Ganga Parsad Pandey Vs. The State of Bihar and Others.

ATR 1982 (2) CAT 502, C.S. Balakumar Vs. Inspecting Assistant Commissioner.

By way of relief the applicants have prayed that:

- i) Action of respondent No.1 in not taking into consideration the period of service rendered by the applicants in the same posts prior to their inclusion in the C.I.S. for purposes of seniority should be set aside.
- ii) The respondent No.1 be directed to treat the applicants as having been included in the C.I.S. from the date of their appointment to the post they were holding at the time of their induction in the C.I.S. and further to compile and complete the revised seniority list after counting their total service in the post with

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consequential benefits.

4. The respondents in their reply have submitted that the project of C.W.M.G. was launched in 1956 to bring out 49-50 volumes by the end of 1969. The project was initially conceived as a temporary one and therefore, no Recruitment Rules were framed for the posts at that time. The appointment to the posts were also made under special arrangements. The appointments in Class I and Class II posts were processed on the recommendation of the Chief Editor who obtained approval of the Chairman of the Advisory Board. This process of appointment was commented by the U.P.S.C. as under:-

"Under the special arrangement agreed to by the Commission regarding appointments to posts in the Unit for the Collected Works of Mahatama Gandhi the Commission, has, as a special case, agreed to dispense with the usual procedure of open competitive selection and to consider each proposal of the Ministry in the light of the qualifications/experience of the candidate concerned and the recommendation of the Chief Editor giving justification regarding the suitability of the candidates concerned in respect of the specific post to which he was proposed to be appointed. All appointment made under this arrangements are, therefore, in the nature of adhoc appointment to specific posts in the Unit. For obvious reasons, therefore, it was not considered necessary to frame Recruitment Rules for the posts in this unit, and all appointments made in connection with this work have to be treated as cases of

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'direct recruitment'. Consequently the question of making appointments made with the Unit which are based upon the principle of 'Promotion' should not arise even where the vacancy to be filled in for a short period."

It is further submitted that the applicants having been continued for longer than the anticipated period of 13 years, a decision was taken to encadre to the posts in the C.I.S. A proposal to merge the editorial staff of C.W.M.G. with C.I.S. sent on 26.3.1976, was approved by the U.P.S.C., in principle, on 23.8.1976. Accordingly, the officers were screened and recommendation received from the U.P.S.C. for induction of the officers in the C.I.S. in the relevant grade vide their letter dated 11.5.1977. Before the officers could be appointed in the appropriate grade in C.I.S., following preliminary steps were required to be taken:

- a) obtaining willingness for the appointment in C.I.S. of the officers holding scales of pay in C.W.M.G. which were at variance with scales of pay in Grade IV of the C.I.S.
- b) Some of the categories of the editorial posts in C.W.M.G. required redesignation to bring them in conformity with those prevailing in C.I.S.
- c) The Schedule attached to the C.I.S. Rules 1959 had to be amended to include the posts held by C.W.M.G.

A formal notification was published on 3.6.1978 after completing the above process. These officers were assigned

seniority below the last regular appointment made in the corresponding grade of C.I.S. as on 3.6.1978 in consultation with U.P.S.C. For instance, Shri A.A. Shiromani, inducted to Grade I C.I.S. was assigned seniority immediately below the last officer in that grade on 3.6.1978. Necessary orders were issued on 10.5.1978. Further, due to some administrative reasons no DPC was held between 1972 to 1978. The DPC for promotion to Grade I met on 5.1.1978 and recommended a panel of 86 officers. 78 out of these empanelled officers were appointed on or before 3.6.1978 i.e. before the induction of Shri A.A. Shiromani. Hence seniority of Shri Shiromani was fixed below these officers.

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4. The applicants moved two MPs No.2268/88 and 1818/89 before the Tribunal and submitted that the Hon'ble Supreme Court has already decided a similar case of Shri R.P. Dhasmana Vs. Union of India on 15.7.1988 in CA-3930/89 and that they should be covered by that judgement. Another MP No.417/89 was filed by the applicants submitting that the decision of the Supreme Court in CA-3930/86 may be implemented in the case of the applicants and that the respondents in OA-552/87 be directed to give seniority to them with retrospective effect from respective dates they were holding the post.

5. In reply to the MPs the learned counsel for the respondents submitted that Shri Dhasmana was in a lower grade of service and that the decision of the Supreme Court in that case cannot be construed as laying down law in the matter of seniority in the C.I.S. in general. In fact, the issue of seniority by way of counting past service other than any regular service in C.I.S. viz. adhoc/temporary service is pending before the Constitution



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Bench of the Hon'ble Supreme Court because of conflicting decisions in the case of Shri T. Kannan & Others Vs. ~~Shri T. Kannan & Others~~ Shri V.T. Arasu & Others and A.K. Bhatnagar and Others Vs. Union of India. The Hon'ble Supreme Court has ordered maintenance of Status quo as on 23.9.1985. As similar points are raised by the applicants in this petition, extension of benefits of Shri Dhasmana's case would be tantamount to pre-judging the issues involved. It is, however, admitted that the decision of the Supreme Court in Dhasmana's case has been implemented. It is contended that the judgement is a judgment in persona only based on the merits of the particular case.

6. The learned counsel for the applicants has quoted a catena of judicial pronouncements to justify the extension of benefits of Shri Dhasmana's case decided by the Supreme Court to the applicants in this case.

7. Having gone through the records and the pleadings subsequently filed by the learned counsel of both the parties carefully, we observe that the issues relating to seniority regarding counting of past service other than regular service in C.I.S. are pending before the Constitution Bench of the Hon'ble Supreme Court. It will therefore, be only proper to wait for the decision of the Hon'ble Supreme Court. We, however, do not find any justification for notifying the induction of the applicants to the C.I.S. from 3.6.1978 instead of 11.5.1977- the date on which the U.P.S.C. had approved the applicants for induction in the C.I.S. in the relevant grades, after screening the officers of C.W.M.B. The other processes brought to our notice which were

required to be completed constituted simple formalities which should not have allowed to delay the formal amendment of the C.I.S. Rules etc. as late as on 3.6.1978. We are not persuaded to accept the reasons given for delay of over a year in issuing the notification for inclusion of the posts held by the applicants in schedule of the C.I.S. Rules.

7. In the facts and circumstances of the case, we order and direct that the amendment to the C.I.S. Rules, 1959 <sup>for</sup> including the posts held by the applicants in schedule 4 dated 17.5.1978 should be given effect from 11.5.1977 retrospectively instead of the date of publication of the notification in the official Gazette on 3.6.1978.

In the circumstances of the case, the parties will bear their own costs.

*Lal Singh*  
(I.K. Rasgotra)  
Member (A) 9/7/90

*T.S. Oberoi*  
9.7.90  
(T.S. Oberoi)  
Member (J)