

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

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REGN.NO. O.A.679/87.

DATE OF DECISION: 29.9.1992

Chander Kumar & Ors. ... Petitioners

Versus

Union of India. ... Respondent.

CORAM: THE HON'BLE MR. JUSTICE V.S. MALIMATH, CHAIRMAN.
THE HON'BLE MR. I.K. RASGOTRA, MEMBER(A).

For the Petitioners. ... Shri M.R. Bhardwaj,
Counsel.

For the Respondent. ... Shri P.P. Khurana,
Counsel.

JUDGEMENT (ORAL)

(Hon'ble Mr. Justice V.S. Malimath,
Chairman)

The petitioners in this case were appointed as Assistants on ad hoc basis in the Union Public Service Commission. That was cancelled on 18.2.1987 from 24.9.1986 to 22.5.1987. The petitioners 1 to 16 were included in the Select List of Upper Division Clerks for the year 1981 and the petitioner No. 17 was included in the Select List for the year 1982. The statutory rules require 8 years of approved service for consideration for promotion to the cadre of Assistants. The petitioners have approached the Tribunal for a direction to accord appointment to the petitioners in the cadre of Assistants on regular basis w.e.f. 29.12.1983, the date from which some of the officers junior to them from other Ministries have been appointed. They have further prayed for a direction to include their

names in the Select List of Upper Division Clerks of the year 1980 and to cancel the order dated 3.1.1985 by which the names of the petitioners were included in the Select List of Upper Division Clerks for the year 1981. They have also prayed for a direction to withdraw the orders issued by Respondent No. 1 appointing the petitioners as Assistants on ad hoc basis and to treat the period of ad hoc appointment as regular for all purposes.

2. The principal grievance of the petitioners is that their names should have been included in the Select List of Upper Division Clerks for the year 1980. If this relief is granted, they will be entitled to secure other consequential benefits for further promotion to the cadre of Assistants. If the petitioners are not able to obtain a direction to include their names in the Select List of Upper Division Clerks for the year 1980, it is obvious that they would not be entitled to any of the relief referred to above.

3. So far as the question of inclusion of the names of the petitioners in the Select List of Upper Division Clerks for the year 1980 is concerned, the clear and categorical stand taken in paragraph 23 of the reply is that "In regard to the contention of the petitioners that their names ought to have been included in the select list of UDCs for the year 1980, it is submitted that as sufficient number of vacancies in the U.D. Grade in the Cadre of UPSC were not

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available, there was no question of their being included as such in the select list of 1980". In the rejoinder filed by the petitioners this assertion of the respondents is not denied. They have stated that if there were no vacancies justifying ^{their inclusion in} the select list for the year 1980, then they should have taken steps in accordance with the circular of 17-12-1981(Para 6). It is their case that their names should have been sent to the Department of Personnel so that their cases ~~could~~ be considered for inclusion in the Select List of Upper Division Clerks in respect of the other departments where there were vacancies. So far as this aspect of the case is concerned, it is necessary to point out that there is no prayer of the petitioners that if there were ^{their inclusion in} no vacancies justifying the select list for the year 1980, in the alternative we should issue a direction to the respondents to send their names to the Department of Personnel for being considered for inclusion in the select list of other departments. There are no averments in the petition also making out a case for a direction to send their names to the Department of Personnel in accordance with the aforesaid Office Memorandum. The learned counsel for the petitioners submitted that it is implicit in the prayer made by the petitioners that the respondents are not acting in accordance with the said Office Memorandum. He further submitted that if there are no vacancies in the U.P.S.C.

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justifying the Select List of Upper Division Clerks for the year 1980, they should act in accordance with the said Office Memorandum and forward the names of the petitioners to the Department of Personnel. This is no doubt a clever argument, but it is stretching the prayer beyond the limit. Hence, it is not possible to accede to this request.

4. For the reasons stated above, this petition fails and is dismissed. No costs.

SRD
290992

I.K. Rasgotra
(I.K. RASGOTRA)
MEMBER (A)

V.S. Malimath
(V.S. MALIMATH)
CHAIRMAN