

In the Central Administrative Tribunal

Principal Bench: New Delhi

OA No.106/87

Date of decision: 31.07.92.

Shri Vishwa Nath Sharma

...Applicant

Versus

Secretary, Department of ...Respondent
Official Language, New Delhi.

Coram:-

The Hon'ble Mr. Justice V.S. Malimath, Chairman

The Hon'ble Mr. I.K. Rasgotra, Administrative Member

For the applicant None

For the respondent None

Judgement (Oral)

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

None appeared either for the applicant or for the respondents when this matter was taken up. As this is a very old matter, we consider it appropriate to dispose of the case on merits after looking into the records.

2. The applicant has prayed for striking down sub Rules 2 and 3 of Rule 6 of the Central Secretariat Official Language Service (Group 'A' and Group 'B') Service Rules, 1983, as violative of Articles 14 and 16 of the Constitution of India and for a direction to correct the Notification dated 17.12.1985 (Annexure P-1) and to place the applicant at serial No.1 in the list of Grade III Officers drawn up under Rule 6(3) of the Rules on the basis of his continuous date of appointment as Hindi Officer and to direct consideration of his case for

promotion to Grade II of the Service with effect from 1.2.1985 and for other reliefs.

3. For the initial constitution of the service, statutory rules have been made by the President in exercise of the powers conferred by the proviso to Article 309 of the Constitution of India viz. the Central Secretariat Official Language Service (Group 'A' and Group 'B') Service Rules, 1983. The sub Rules 2 and 3 of Rule 6 of the Rules, which are relevant for our purpose may be extracted as follows:-

"(2) For making appointments against the remaining vacancies if any in Grade I and Grade II at its initial constitution, the selection Committee constituted under sub-rule (1) shall hold selection for determining the suitability of departmental candidates holding posts being included in Grade I and Grade II other than those mentioned in sub-rule (1) and also those holding posts in Grade II and Grade III who have put in a minimum of 5 years continuous service in the scale of Rs.1100 (1200)-1600 and a minimum of eight years continuous service in the scale of Rs.650-1200 or above for appointment to Grade I and Grade II respectively. The Committee shall prepare separate lists, arranged in the order of merit, of candidates considered suitable for appointment to Grade

I and Grade II of the Service at its initial constitution. Such officers shall be placed en-bloc junior to those selected under sub-rule (1).

(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 III 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 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. The applicant claims that his seniority should have been determined on initial constitution of the service, taking into consideration the length of continuous service of the applicant and not by operating sub-rule (2) and (3) of Rule 6 of the Rules, extracted above. As there is a statutory rule governing the regulation of seniority, the question of applying any other principle does not arise. That is the reason why the applicant has challenged the vires of these clauses of Rule-6. He submits that ✓ the rule which provides for a selection and determination

of seniority on the basis of the rankings given in pursuance of such selection is violative of Articles 14 and 16 of the Constitution of India. It is not the law that continuous officiation is the only principle which can validly be prescribed in the matter of determination of relative seniority. We have to determine as to whether the impugned rules are violative of Articles 14 and 16 of the Constitution of India. The respondents have furnished the reasons which justified the formulation of these rules. For the initial constitution of the service personnel were drawn from different departments where the conditions regarding entry and opportunity were not identical. Hence it was open to the Rule Making Authority to prescribe appropriate rules for the initial constitution of the service. The clear effect of the impugned rules is to subject every one to the same process headed of selection by appointing a selection committee by a member of the Union Public Service Commission. The said committee, as is clear from the reply filed, was required to make comparative assessment of C.R. dossiers, bio-data and other relevant facts of departmental candidates and to assess their suitability for inclusion in the initial constituted service. It is the assessment of the relative merits of the candidates that regulated the rankings given to them on their being selected and inducted in the service. As merit and suitability were required to be assessed on a uniform basis by a High Powered Committee, it is not possible for us to take the view

that there is any infirmity in the impugned rules which can be regarded as prescribing irrelevant criteria for induction. We, therefore, have no hesitation in holding that the impugned rules do not infringe Articles 14 and 16 of the Constitution of India. As the seniority of the applicant stood regulated by the process of selection prescribed by these statutory rules, he cannot make any legitimate grievance of the same. We, therefore, do not see any good reason to interfere in this Application. The Application, therefore, fails and is dismissed. No costs.

S. Iyer
(I.K. Rasgotra)
Member (A)

V. S. Malimath
(V. S. Malimath)
Chairman

July 31, 1992.

skk