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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,  
NEW DELHI.

O.A.No.201/91

New Delhi: March 10th, 1995.

HON'BLE MR.JUSTICE B.C.SAKSENA, VICE CHAIRMAN.

HON'BLE MR.S.R.ADIGE, MEMBER (A).

Shri N.P.Sharma,  
Deputy Secretary( ASEAN),  
Ministry of External Affairs,  
South Block,  
New Delhi- 110011.

.....Applicant.

By Advocate Shri D.C.Vohra

Versus

Union of India through  
The Foreign Secretary,  
Government of India,  
Ministry of External Affairs,  
South Block,  
New Delhi -110011.

.....Respondent.

By Advocate Shri N.S.Mehta.

JUDGMENT

By Hon'ble Mr. Justice B.C.Saksena, Vice-Chairman

We have heard the learned counsel for the parties.

2. The applicant through this O.A. challenges the fixation of 1979 as a year of his allotment in the Indian Foreign Service (IFS). He seeks a direction to be issued to the respondents to fix his seniority and year of allotment vis-a-vis similarly placed persons and above the direct recruits of the year 1979 in IFS in terms of Rule 15 (4) (i) of the IFS (RCSP) Rules, 1961.

3. The application was resisted by the respondent by filing counter affidavit to which the applicant filed his rejoinder. Admittedly, the applicant

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was promoted to Grade I of IFS(B) w.e.f. 24.12.81. He was considered for promotion to the senior scale of the IFS in the 1984 panel along with other officers who were promoted to Grade I of IFS(B) along with him. A list of 26 officers promoted to the senior scale in the 1984 panel has been filed by the applicant (Annexure-E). The applicant was again considered for promotion to the senior scale for the 1985 panel. The applicant claims that he was placed at S.No.5 in the said panel, the copy of the said panel is Annexure-F to the O.A. The respondents in their counter affidavit have indicated that the officers at S.Nos.1, 2 and 3 in order of this panel were all promoted to Grade I of IFS(B) in December, 1982 and were allotted 1979 as a year of allotment. It has also been indicated that since these three officers were above the applicant in the 1985 Panel for the senior scale, the applicant was promoted to the senior scale w.e.f. 26.10.87.

4. In view of these facts, the provisions of Rule 15 of the IFS(RCSP) Rules, 1961 have to be interpreted. The applicant bases his claim solely on the provisions of Sub-Rule (4) of Rule 15 of the IFS(RCSP) Rules, 1961. The said Sub-Rule reads as under:-

"(4) When an officer is promoted to the senior scale of the Service in accordance with sub-rule (2) or sub-rule (4)\* of rule 13, he shall be given a year of allotment as follows:-

(i) If he is promoted from Grade I of the Indian Foreign Service Branch 'B' one corresponding to a date three years prior to the date from which he was continuously holding a post in Grade I of the Indian Foreign Service Branch 'B' or an equivalent or a higher post;

\*(ii) if he is promoted from the Indian Information Services- one corresponding to a date from which he was continuously holding a post in the Indian Informat-

ion Services in a capacity not lower than that of an information Officer;

Provided that clauses (i) and (ii) shall not so apply as to make any promoted officer senior to any other officer promoted under sub-rule (2) or sub-rule (4) of rule 13 on an earlier occasion, and in the event that this occurs, the year of allotment shall be increased to that of the lower officer in the Gradation List promoted under sub-rule (2) or as the case may be, of sub-rule (4) of rule 13;

Provided further that the year of allotment so determined shall not be earlier than the year, 8 years preceding the date of actual promotion."

He claims that since his promotion to Grade I of IFS(B) was w.e.f. 24.12.81, his year of allotment is to be three years prior to the year of promotion to Grade I of IFS(B) viz. 1978. On the other hand, the respondents' case is that the first proviso to Sub-rule (4) of Rule 15 will be attracted and the three officers who were promoted to Grade I in December, 1982 had qualified at an earlier selection for the senior scale and were allotted 1979 as the year of allotment and the applicant cannot be granted the year of allotment earlier than 1979. In counter affidavit, necessary facts have been indicated and in view of the proviso, we are satisfied that the provisions of Rule 15(4) (i) have to be applied in such a manner that the year of allotment of an officer cannot be earlier than the year of allotment of any other officer promoted earlier than him. Since the year of allotment determines the seniority of an officer in the IFS, an officer promoted earlier should be senior to an officer promoted later to the same post. The order fixing the year of allotment of the applicant was passed subsequent to the applicant's promotion to the senior scale and thus for the purpose of fixing year of allotment, the fact that the other

three officers who had been selected for the senior scale in the earlier panel although they were junior to him in Grade I, have been given 1979 as the year of allotment, the applicant cannot be granted the year of allotment earlier than 1979. Thus we are satisfied that the impugned order does not call for any interference by us and the O.A. lacks merit.

5. Learned counsel for the applicant further indicated that through the rejoinder the applicant has filed copy of an order dated 10.5.91 passed in O.A.No.424/90 S.B.Singh Vs. UOI, which shows that the learned counsel for the applicant in that case, on the basis of a letter received by him from the applicant therein, had indicated to the Court that the applicant's representation about his seniority was re-examined by the Ministry in detail and consequently it was decided that his seniority shall be refixed above the 1972 batch of direct recruits. The O.A. was not pressed and was accordingly dismissed as withdrawn.

6. Learned counsel for the applicant in this case thus submitted that a direction be issued to the respondents to consider the question of granting the same relief, as has been granted by the Ministry to Shri S.B.Singh in O.A.No.424/90. Shri N.S.Mehta, learned counsel for the respondents has rightly urged that in the absence of the relevant pleadings of record of this O.A. O.A.No.424/90 on the/and in the absence of relevant facts, on the basis of which, the Ministry had taken a decision to refix the seniority of Shri S.B.Singh above the 1972 batch of direct recruits, the order in

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the said O.A. i.e. 424/90 is of no avail to the applicant. There was adjudication by the Tribunal as the O.A. was withdrawn. In the present O.A., there is no material to show that the applicant is similarly situated as Shri S.B.Singh and that the facts of the present case are similar and identical to that case. When the learned counsel for the applicant was asked whether he wishes to withdraw this O.A., he stated that he has no instruction for the same and insisted that the matter be adjudicated on merit. Thus, we heard the learned counsel for the parties on merit.

7. In view of the facts and circumstances of the case, we find no merit in the O.A., and accordingly it is dismissed. No order as to costs.

*Adige*  
( S.R. ADIGE )

MEMBER (A)

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( B.C. SAKSENA )  
VICE CHAIRMAN (J).

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