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In the Central Administrative Tribunal
Principal Bench, New Delhi

Regn. No. 487/91

Dated: 17.5.1991

Shri S. S. Grewal

.... Applicant

Versus

Union of India through
the Secretary, Ministry
of Home Affairs & Ors.

.... Respondents

For the Applicant

.... Shri Shankar Divatia,
Senior Counsel and
Shri B. Datta, Sr. Counsel
with Shri Narosh Kaushik,
Counsel

For the Respondents

.... Shri Ashwini Kumar, Addl.
Solicitor General with
Shri N. S. Mehta, Sr. Counsel,
Shri Jagjit Singh, Counsel
for the Intervenor in
MP-768/91, and
Shri Rajiv Gupta, Counsel
for the Intervenor in
MP-769/91

CORAM: Hon'ble Mr. P. K. Kartha, Vice-Chairman (Judl.)
Hon'ble Mr. B. N. Dheuadiyal, Administrative Member

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

(Judgment of the Bench delivered by Hon'ble
Mr. P. K. Kartha, Vice-Chairman)

The applicant is working as D.C.P., 3rd Battalion,
D.A.P., Delhi. In this application filed by him under
Section 19 of the Administrative Tribunals Act, 1985,
he has sought for the following reliefs:-

- (i) To quash the proceedings of the Selection
Committee which met in January, 1991 and

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considered the officers of DANI Police Service for selection to the I.P.S., the same being illegal, violative of the relevant rules and regulations and unconstitutional;

(ii) to quash regulation 5 (sub-regulations 4, 5 and 6 of the I.P.S. regulations, the same being unconstitutional); and

(iii) to direct reconstitution of the Selection Committee to consider the applicant and other officers as against the vacancies for 1987 and onwards separately for each year and direct his appointment to the I.P.S. in view of his placement in the Select List prepared in 1987.

2. The application was filed in the Tribunal on 20.2.1991. On 21.2.1991, while admitting the application, the Tribunal passed an interim order directing that the status quo as regards the enforcement of the 1991 Select List as of that date, be maintained. The said interim order has been continued thereafter till the case was finally heard on 10.5.1991.

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3. The facts of the case in a nutshell are as follows. The applicant joined DANI Police Service on 19.5.1976 on the basis of I.A.S. and Allied Services Competitive Examination held in 1974. He has worked for about 15 years and is presently working as Dy. S.P. in the Delhi Police. He became eligible for appointment to the I.P.S. and his case was considered for such appointment by the D.P.C. constituted in December, 1987. He has stated that the Selection Committee included his name in the Select List at serial No.1 amongst the officers of DANI Police Service. The said list, however, was cancelled by the Ministry of Home Affairs on representations received from the officers of the DANI Police Service. He has argued that had this Select List remained valid, he would have been automatically appointed to the I.P.S. against vacancies arising/available in 1988. No Selection Committee was constituted in 1988, 1989 and 1990. This was contrary to the relevant rules and regulations. The Selection Committee has now been constituted after a lapse of four years in January, 1991. He has alleged that the Selection Committee has prepared a consolidated Select List against the vacancies

of all the four years. He has called in question the validity of the clubbing of vacancies which had arisen during the span of four years. He has contended that the Selection Committee should have considered him as in 1987, in which case, he would have figured at the top in the Select List.

4. The Union of India have stated in their counter-affidavit that the proceedings of the Selection Committee held on 31.12.1987 were cancelled and, therefore, the question of inclusion of the applicant as number one amongst the officers of DANI Police Service, does not arise. It was on the representations made by DANI Police Service officers, including the applicant, that the Select List of 1987 was cancelled. At the time of the meeting of the Selection Committee for promotion to the I.P.S. on 31.12.1987, in addition to DANI Police and Pondicherry Police Service, the following were also included in the Feeder Services:-

- (i) Goa, Daman & Diu Police Service;
- (ii) Arunachal Pradesh Police Service; and
- (iii) Mizoram Police Service.

5. Arunachal Pradesh Police Service and Mizoram Police Service were made the Feeder services for

promotion to the I.P.S. in the erstwhile Union Territory Cadre, vide Department of Personnel & Training notification dated 30.12.1987. The decision for not operating the Select List recommended by the Selection Committee in its meeting held on 31.12.1987, was taken for the reason that the vacancies available at that time were to be distributed among the States of Arunachal Pradesh, Mizoram, Goa, and the Union Territories segment-wise, since after the formation of the former three States, the erstwhile U.T. Cadre had to function as a joint Cadre. In a joint Cadre, the vacancies allocated to different units are filled by promotion from the feeder Service of that particular unit. After examining the various aspects, the joint cadre for Arunachal Pradesh, Goa, Mizoram and Union Territories (AGMU) was notified by the Department of Personnel & Training vide their notification No. 11031/35/88-AIS (II)-8 dated 28.12.1988. In view of this, the respondents have contended that the crucial date for distribution of vacancies available in the erstwhile U.T. Cadre in different constituent units, was 28.12.1988.

6. The Department of Personnel & Training issued a notification on 3.4.1989 constituting the joint Cadre

authority for joint AGMU Cadre consisting of the Chief Secretaries of Arunachal Pradesh, Goa and Mizoram, the Additional Secretary in the Ministry of Home Affairs in charge of UTs Division, and the Joint Secretary (UT) in the Ministry of Home Affairs (to act as Convenor).

7. After several discussions, the joint Cadre authority at its meeting held on 20.5.1990, decided the allocation of three vacancies in promotion quota available as on 28.12.1988 and notional allocation of 27 promoted I.P.S. officers available in the then U.T. Cadre as on 28.12.1988, the date of notification of the joint AGMU Cadre. The respondents have contended that after cancellation of the Select List recommended by the Selection Committee in December, 1987, there was no question of appointment of officers included in the Select List to I.P.S. Further, the erstwhile U.T. Cadre was abolished on 28.12.1988 and a new joint AGMU Cadre was constituted on the same date. After the constitution of the new Cadre, a fresh Select List was required to be drawn for promotion to I.P.S. in each segment of the joint AGMU Cadre. For that purpose, promoted I.P.S. officers available in the joint Cadre as on 28.12.1988,

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had to be notionally allocated to different constituent units of the joint Cadre so that the vacancies in each unit could be worked out. The respondents have stated that as on 28.12.1988, the promotion quota in the erstwhile U.T. Cadre and joint AGMU Cadre worked out to 30 against which 27 promotee officers were already available in the Cadre. The joint Cadre authority, at its meeting held on 20.6.1990, decided to allocate one vacancy each to Arunachal Pradesh segment, Mizoram segment and U.T. segment as on 28.12.1988. 27 promotee officers were also allocated to four segments of the joint Cadre and a letter to this effect was issued by the Ministry of Home Affairs on 18.7.1990. Thereafter, letters dated 10.8.1990 were issued to the Chief Secretaries of the Government's of Arunachal Pradesh, Goa and Mizoram requesting them to furnish relevant material/information for preparation of Select List for promotion to I.P.S. in respective segments on the basis of vacancies in promotion quota.

8. With regard to the contention of the applicant that the Selection Committee which was constituted in January, 1991, should not have considered the members
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of the DAVI Police Service for preparation of consolidated Select List against the vacancies of all the four years, the respondents have stated that Regulation 5 of the I.P.S. (Appointment by Promotion) Regulations, 1955, provides that the meetings of the Selection Committee should ordinarily be held every year, but it does not lay down that it is mandatory to hold the meetings every year.

9. We have carefully gone through the records of the case and have considered the rival contentions. Shri B. Datta, learned Senior Counsel appearing for the applicants, relied upon the judgements of the Chandigarh Bench dated 5.3.1987 in TA-519/86 (Durga Shankar Amist Vs. Union of India & Others) and the judgement dated 17.8.1990 in OA-337/90 (Pratap Singh Vs. Union of India & Others). He also relied upon the decisions of this Tribunal in N.C. Murali & Others Vs. Union of India & Others, 1990 (3) SLJ (CAT) 425, and in S.N. Sharma and Others Vs. Union of India & Others, 1989 (1) SLJ (CAT) 257, in support of his contention. Shri Ashwini Kumar, the learned Addl. Solicitor General, submitted that the rulings relied upon by the applicants are clearly distinguishable and

do not lend support to the contentions raised by them.

10. In the case of Shri Durga Shankar Amiet, the Chandigarh Bench of the Tribunal quashed a Select List of I.P.S. of 1982 and directed the respondents to prepare the Select List afresh on year-to-year basis, keeping in view the overall assessment of the eligible officers as required under the I.P.S. (Appointment by Promotion) Regulations, 1955. The learned counsel for the applicant drew our attention to the order passed by the Ministry of Home Affairs on 29.3.1990, whereby the Union of India implemented the above judgement delivered by the Chandigarh Bench.

11. In Shri Pratap Singh's case, the Allahabad Bench issued similar directions to the respondents to prepare Select Lists on the basis of year-wise vacancies for promotion of officers in accordance with the I.P.S. (Appointment by Promotion) Regulations, 1955.

12. In N.C. Murali's case, which dealt with the seniority of Geo-physicists in the Geological Survey of India, Calcutta, the Hyderabad Bench of this Tribunal set aside the proceedings of the D.P.C. on the ground that it had clubbed the vacancies arising in the years 1981,

1982, 1983 and 1984 and directed the respondents to convene the D.P.C. afrosh and to prepare year-wise panels.

13. In S.N. Sharma's case which dealt with the promotion of employees of the Delhi Milk Scheme to Class II posts, the Principal Bench of this Tribunal directed the respondents to determine the vacancies that arose in each of the years and to prepare year-wise panels.

14. The applicants have also relied upon the consolidated instructions issued by the Government in regard to the procedure to be followed by Departmental Promotion Committees, a copy of which has been reproduced at Annexure-B to the application, pages 20-27 of the paper-book.

15. In the instant case, there has been a departure from the aforesaid procedure laid down by the Government for reasons already mentioned above. There had been representations from the officers, including the applicant, challenging the validity of the Select List prepared by the Selection Committee in 1987 on the ground that officers of the Mizoram and Arunachal Pradesh Police Service had also been included in the foeder Service by giving them incorrect seniority. As we have noticed, the Ministry of Home Affairs cancelled the proceedings

of the Selection Committee held in 1987. Thereafter, a joint Cadre for Arunachal Pradesh, Goa, Mizoram and Union Territories (AGMU) was constituted in December, 1988. This was followed by allocation of vacancies segment-wise and thereafter, a meeting of the Selection Committee was held in January, 1989. In the peculiar facts and circumstances of the case, we are of the view that ~~adherence to~~ the normal procedure of preparation of year-wise panels, was ~~not~~ neither feasible or practicable. The vacancies came to be allocated only after the creation of the joint Cadre in 1988 and after holding discussions with all concerned.

16. The learned Addl. Solicitor General stated that as of today, there are six vacancies for promotion to the I.P.S. allocated to the DANI Police Officers, and that the Departmental Promotion Committee has prepared a Select List of six officers for induction in the I.P.S. Cadre. The applicant's name also figures in the said list. He, therefore, submitted that there is hardly any reason or justification for holding up the entire list as the applicant also would get promoted along with the others.

17. As regards the preparation of the Select List, Regulation 5 (4), (5) and (6) of the I.P.S. (Appointment by Promotion) Regulations, 1955 lays down the following

On

guidelines:-

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(4) The Selection Committee shall classify the eligible officers as 'Outstanding, Very Good, Good or Unfit, as the case may be, on an overall relative assessment of their service records.

(5) The list shall be prepared by including the required number of names, first from amongst the officers finally classified as 'Outstanding', then from amongst those similarly classified as 'Very Good' and thereafter from amongst those similarly classified as 'Good' and the order of names inter-se within each category shall be in the order of their seniority in the State Police Service:

Provided that the name of any officer so included in the list shall be treated as provisional if the State Government, with holds the integrity certificate in respect of such officer or any proceedings are contemplated or pending against him or anything adverse against him has come to the notice of the State Government.

(6) The list so prepared shall be reviewed and revised every year."

18. The above procedure is similar to that of I.A.S. (Appointment by Promotion) Regulations, 1955, the validity of which has been upheld by the Supreme Court in R.S. Dass Vs. Union of India, 1986 Supp, Supreme Court Cases, 617 and U.P.S.C. Vs. H.L. Dov, 1988(2) SCC 242.

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

The interim order passed on 21.2.1991 directing the

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respondents to maintain status quo as regards the enforcement of the 1991 Select List as of that date, is hereby vacated.

There will be no order as to costs.

B. N. Dhundiyal
(B. N. Dhundiyal)
Administrative Member

Parvin
17/5/91
(P. K. Kartha)
Vice-Chairman(Judl.)