

Central Administrative Tribunal, Principal Bench

O.A.No.1205/92

18

Hon'ble Smt. Lakshmi Swaminathan, Member(J)  
Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this the 26th day of August, 1997

1. Shri K.L.Gothwal  
s/o Late Shri Sewa Ram  
working as Senior Investigator in  
Ministry of Transport  
Department of Surface, New Delhi  
r/o A/77, Ashok Vihar  
Phase III, Near Luxmi Bai College  
Delhi - 110 052.
2. R.D.Bansiwal  
s/o Shri Hattu Ram  
working as Analysit in  
M/o Heal & Welfare  
Dept. of Family Welfare, Nirman Bhawan  
r/o 3377, Ranjeet Nagar  
Pusa Gate, New Delhi - 8.

... Applicants

(By Shri P.L.Mimroth, Advocate)

Vs.

1. Union of India through  
Secretary  
M/o Planning  
Deptt. of Statistics  
Govt. of India  
Sardar Patel Bhawan  
New Delhi - 110 001.
2. Under Secretary to the Govt. of India  
M/o Shipping & Transport  
(Transport Wing) Parivahan Bhawan  
New Delhi - 110 001.
3. Under Secretary (EIII)  
M/o Health & Family Welfare  
Nirman Bhawan  
New Delhi - 110 011.
4. Director  
Department of Personnel & Training  
North Block  
New Delhi - 110 001.

... Respondents

(By Shri P.H.Ramchandani, Advocate)

O R D E R (Oral)

Hon'ble Shri R.K.Ahooja, Member(A)

Applicant No.1 and Applicant No.2 ~~who~~ belong to the statistical discipline post recognised as feeder posts for promotion to Grade IV of Indian Statistical Services (here-in-after called ISS). Applicant No.1 is working as Senior Investigator (Statistical Discipline) in the Transport Research

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Division, Ministry of Shipping & Transport on regular basis w.e.f. 11.8.1978. Applicant No.2 had also been working as Investigator (Statistics) in the Ministry of Health & Family Welfare on a regular basis w.e.f. 11.9.1978. The applicants state that number of persons were promoted to Grade IV of ISS as a result of the Judgment dated 1.2.1984 in the case of Narendra Chadha & Others Vs. Union of India & Others (CWP No.1595/79). A copy of the same is at Annexure A-6. As a result of this Judgment, concerned Departments were directed to promote all those persons who were officiating against Grade-IV posts of IES/ISS on regular basis into Grade-IV of that service and they were given seniority from the dates of such continued officiation. Subsequently, the feeder post holders who were senior to the beneficiaries of the Narendra Chadha's case (Supra), moved the Hon'ble Supreme Court and in September, 1990, the Supreme Court in the Judgment in Kapila's case (a copy of the same at Annexure -2) decided that all feeder post holders who are senior to the beneficiaries in Narendra Chadha's case should also be given promotion w.e.f. 1.10.1990. But the beneficiaries should not claim consideration of their past service for re-adjustment in their inter-se seniority. The applicant states that Respondent No.1 vide his letter No.11024/13/90-ISS dated 30.10.1990 invited information in the prescribed proforma about eligible non-Petitioners belonging to the statistical discipline officers holding posts recognised as feeder grade posts for promotion to Grade-IV of ISS whose juniors belonging to the same category had been appointed to Grade-IV of ISS and included in the seniority list in that grade circulated on 8.5.1986 in compliance with Narendra Chadha's case dated 11.2.1986 (CWP No.2604/95 in CWP No.1595/79). The applicants further submit that they also preferred their request through proper channel to R-1 stating that one Shri K.L.Sakshi junior to both the applicants has already been promoted from 8.1.1986, and they

should also be promoted to Grade-IV of ISS w.e.f. 1.10.1990. Their grievance is that their request was not accepted. They have therefore now come before the Tribunal seeking a direction to the respondents to promote them to the post of Asstt. Director in Grade-IV of ISS w.e.f. 1.10.1990 in pursuance of the Supreme Court's directions dated 11.9.1990 in Kapila's case.

29

2. The respondents in their reply deny the contentions of the applicants. They state that Shri K.L.Sakshi was officiating on regular basis as a Senior Investigator w.e.f. 30.6.1969 on the recommendations of the concerned DPC and with the approval of the competent authority and as such he was not junior to the applicants.

3. We have heard the learned counsel on both sides. Learned counsel for the applicants submits that though the respondents have claimed that Shri Sakshi had been given ad-hoc promotion w.e.f. 30.6.1969, there is no documentary proof to support their contention. In view of this position the promotion of Shri K.L.Sakshi is to be counted w.e.f. 03.05.1979. The applicants having been appointed on regular basis earlier to Shri K.L.Sakshi were entitled to the benefit of B.S.Kapila & Others Vs. Cabinet Secretary & Others (decided on 11.9.1990) Annexure 3 and should be deemed to be included in ISS w.e.f. 1.10.1990. On the other hand, Shri P.H.Ramchandani, learned counsel for the respondents has pointed out that the promotion of Shri K.L. Sakshi had taken place in pursuance of the Narendra Chadha's case which clearly shows that he had been officiating since 30.6.1969. Later a review DPC was held in May, 1987 on the basis of which the regular promotion of Shri K.L.Sakshi was postponed from 30.6.1969 to 3.5.1979. Later the officers affected by the review DPC office order dated 8.5.1987 filed an application before this

-4-

Tribunal in OA No.984/86 Dine Nath & Others Vs. Union of India & Others. While disposing of that OA, the Tribunal had directed as follows:

27

"In the result the application is allowed with the direction that all the applicants and the intreveners shall be regularised as Senior Investigator from the dates of their initial ad hoc promotion and they shall be entitled to seniority and other consequential benefits accordingly..."(Emphasis supplied).

4. As a result of that the applicants in OA No.984/86 had been given the benefit of their adhoc promotion and further induction into ISS. However, as Shri K.L.Sakshi had already been included in the ISS on the basis of his adhoc promotion from 30.6.1969, the review DPC did not effect him and therefore, he did not come as a party before the Tribunal. In view of this, the change of seniority of Shri K.L.Sakshi did not affect his inter-se position Vis-a-vis the applicants who were admittedly appointed as Senior Investigators at a later date, much after Shri K.L.Sakshi was on adhoc basis.

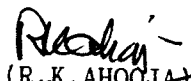
5. We have carefully considered the rival arguments. The applicants claim induction into ISS with reference to the inclusion of Shri K.L.Sakshi into ISS. In terms of Narender Chadha's Judgment the officers who were holding Grade-IV posts on adhoc basis had to be inducted into the ISS. Shri K.L.Sakshi on that basis had been included into ISS Grade-IV w.e.f. 6.1.1986 vide order dated 08.05.1986. Applicant No.1 and Applicant No.2 worked on adhoc basis and given their promotions on regular basis from 11.8.1978 and 11.9.1978 respectively in the feeder posts of the ISS. At no stage they were given promotions on adhoc basis to posts in Grade-IV of the ISS and therefore could not get the benefit of Narender Chadha's Judgment. This being so, the case of the applicants fall in a differnt category altogether from that of Shri K.L.Sakshi. By the time the review DPC took place in May, 1987 the position of Shri K.L.Sakshi had changed inasmuch

as he had become a member of the ISS and was no longer in the statistical cadre like the applicants. For that reason, the applicants could not now claim seniority above Shri K.L.Sakshi despite the review DPC.

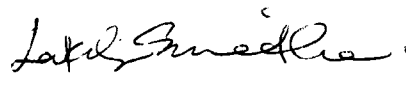
22

6. It has been contended on behalf of the applicants that they are members of Scheduled Caste and therefore they are entitled to special consideration. The promotion granted to the Scheduled Castes is in terms of direct recruitment and promotion. The appointment ~~made~~ of Shri K.L.Sakshi ~~as Investigator~~ to the ISS is however as a result of an order based on a judicial decision giving the benefit of adhoc officiation. No direction has been brought to our notice which would make such regularisation subject to reservation in favour of SC/ST officers in statistical cadre who were not holding ISS posts on adhoc basis. This being so we cannot accept the claim of the applicants on grounds of their caste status.

7. In the circumstances of the case we dismiss the OA. No order as to costs.

  
(R.K. AHOOJA)  
MEMBER(A)

/rao/

  
(SMT. LAKSHMI SWAMINATHAN)  
MEMBER(J)