

Central Administrative Tribunal
Principal Bench, New Delhi.

O.A.No.50 of 1993

18th day of February, 1994.



Shri N.V. Krishnan, Vice-Chairman(A)

Shri B.S. Hegde, Member (J)

1. Shri R.P. Uniyal,
S/o Shri G. Uniyal,
2. Shri Hari Singh,
S/o Shri Panchi Ram
3. Shri N.P. Bhatnagar,
S/o Shri S.P. Bhatnagar
4. Shri S.C. Ghosh,
S/o Shri S.C. Ghosh
5. Dr. V. Rajeswra Rao,
S/o Late Shri Subramanyam
6. Shri Gopinath Saha,
S/o Late Shri N.C. Saha
7. Shri E. Kulandaivelu,
S/o Shri P. Ekambaram Pillai
8. Shri P.C. Chaturvedi,
S/o Shri S.C. Chaturvedi
9. Shri A.K. Chakraborty,
S/o Shri S.N. Chakraborty
10. Shri Ramesh Chand,
S/o Shri M.R. Gupta
11. Shri D. Joardar,
S/o Shri R.N. Joardar
12. Shri Jai Kumar Sharma,
S/o Shri L.R. Sharma
13. Shri Vijay Barapatra,
S/o Shri Yashwant
14. Smt. Rupa Jaggi,
W/o Shri P. Jaggi
15. Shri A.K. Bansal,
S/o Shri F.C. Bansal
16. Shri S.C. Jain,
S/o Shri B.P. Jain

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17. Shri Ramesh Chandra,
S/o Shri Gajai Singh
18. Shri Mehfoor Ali,
S/o Shri M. Anwar Ali
19. Shri R.C. Vashishth,
S/o Shri Fateh Singh
20. Shri Ejaz Ahmed,
S/o Shri M. Iqbal
21. Shri Sarbjit Singh,
S/o Shri Gulzara Singh

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(All working as Assistant Meteorologists in the
Office of Director General of Meteorology,
Lodi Road, New Dehi-110003)

Applicants

By Advocate: Shri M.N. Krishnamani with
Shri Jog Singh.

Versus

1. Union of India through
Secretary,
Ministry of Science & Technology
(Department of Science & Technology)
Technology Bhavan,
New Mehrauli Road,
New Delhi.
2. The Director General of Meteorology,
India Meteorology Department,
New Delhi-110003.
3. The Union Public Service Commission
through its Chariman,
Dholpur House,
New Delhi.
4. Shri B.C. Sardar,
C/o Office of DGM(Sat Met),
I.M.D., Lodhi Road,
New Delhi.
5. Shri H.S. Ahluwalia,
C/o Office of D.G.M.(Sat Met),
I.M.D., Lodhi Road,
New Delhi.
6. Shri Pritam Lal,
C/o Office of DGM(Mausam Bhawan),
I.M.D., Lodhi Road,
New Delhi.
7. Shri Surinder Kumar,
C/o Office of DDGM (U.I.),
I.M.D., Loshi Road,
New Delhi.

Respondents

By Advocate Ms. Pratima Mittal, Proxy for
Shri K.C. Mittal.

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Shri N.V. Krishnan, Vice-Chairman

The applicants are aggrieved by the seniority lists issued by the respondents in pursuance of the Annex. I judgement dated 1st November, 1990 in OA-553/87 and O.A.1264/87, which are cross applications. The review application filed by the Department was dismissed on 7.2.1991 (Annex.VII) and the S.L.P. filed by the Department was also dismissed by the Supreme Court by the order dated 8.7.1991 (Annex.II). This judgement has thus become final. The applicants preferred a contempt petition before this Tribunal alleging that the provisional seniority list issued by the respondents in pursuance of the aforesaid judgement, was contrary to the directions given in that judgement and, therefore, constituted contempt. By the time the contempt petition was finally heard, the final seniority list had also been issued. That petition was dismissed by the Annex.IV order dated 23.1.1992 without prejudice to the petitioners working out their rights in accordance with law. The applicant filed S.L.P. before the Supreme Court against this order. The S.L.P. was dismissed on 14.7.1992 by the Annex.-V order, holding that the proper remedy was to file an O.A., wherein the hope was ^u also expressed that, in case the petitioners file an O.A., the Tribunal would take up the matter and dispose it of expeditiously.

2. It is in this background that this O.A. has been filed by 21 applicants in January, 1993.

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3. It is seen that there was a dispute about the fixation of seniority in the grade of Professional Assistants (PAs) in the Directorate General of Meteorology, the dispute centering round the seniority to be assigned to direct recruits vis-a-vis promotees. The present applicants are direct recruits and they had filed OA-1264/87. The promotees also filed OA-553/87. Both the O.As were disposed of by the Annexure-I order dated 1.11.1990.

4. It will be advantageous to set out briefly the dispute involved, which was disposed of by the earlier judgement of the Tribunal, to appreciate the prayers made in the present O.A.

5. The case of the promotees in OA-553/87 was that the post of P.A. has to be filled up 50% by promotion and 50% by direct recruitment. There was no direct recruitment from 1976 to 31.12.1980. The quota system had collapsed and, therefore, the rota rule of seniority cannot be followed. They, therefore, prayed that the seniority list of PAs already prepared on 25.1.1982, reckoning the seniority of promotees from the date of their promotion as PAs, should be used for further promotion, without making any amendment therein on the basis of the quota-rota rule.

6. On the contrary, the direct recruits, including the present applicants, submitted in OA-1264/87 that there was no break in the quota system, because, the respondents deliberately suspended direct recruitment in gross violation of the recruitment rules and against

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the specific advice of the U.P.S.C. in this behalf. Therefore, the quota-rota rule should be given effect to fully.

7. The Tribunal found as follows:-

6. "We have heard learned counsel of both the parties and given our careful thought to the rival contentions. The material facts of the case are that the recruitment to the post of PAs is from two sources; 50% posts are to be filled up by direct recruitment and the remaining 50% by promotion from the feeder categories. During the year 1974 to 1976, the direct recruitment was suspended with the consent of the U.P.S.C. and the Department of Personnel. The recruitment rules, therefore, stood modified as far as that period is concerned. For the period from 11.1.76 to 31.12.1980, however, the recruitment rules as notified held the fort without any amendment. In this connection we may refer to the powers to relax the rules as provided in Notification dated 16.1.1969:-

Power to relax. Where the Central Government is of the opinion that it is necessary or expedient so to do, it may by order for reason to be recorded in writing and in consultation with the U.P.S.C. relax any of the provision of these rules with respect to any class or category of persons or posts."

In the absence of the concurrence of the U.P.S.C. for relaxation of the rules, the suspension of the direct recruitment by the respondents No.1 & 2 cannot, therefore, be legally sustained. In this view of the matter, the appointment of the promotees to the post of P.As in excess of the quota earmarked for them in terms of the provision of the statutory Rules does not give any legal right to the promotees for claiming confirmation in those posts. While the promotees against their own quota have the right to be regularised, the vacancies of the direct recruits cannot be arrogated for confirmation of the promotee applicants." (emphasis supplied)

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"Obviously, the promotees cannot be deemed as regular appointees against the vacancies of direct recruitment quota. They will have to seek their promotion against their own quota in regular basis in accordance with the Rules. The appointments made in excess of the promotee quota to man the vacancies of the direct recruits would necessarily have to be off set against the promotee quota in the subsequent years. The only benefit that accrues to the promotees is that they have enjoyed the benefit of

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holding posts in the higher grade against the direct recruit quota earlier than they would have got in their turn in the quota earmarked for them. Their officiation in the vacancies in excess of their quota in the higher kpost is fortuitous and purely on ad hoc basis." (emphasis supplied)

8. The Tribunal, thereafter, came to the following conclusions:-

"7. In view of the above the following position emerges:

(a) promotions made in excess of the quota earmarked for the promotees are not legally sustainable;

(b) the ad hoc service rendered as Professional Assistants in excess of the quota earmarked for promotees would not be treated as regular service till the promotees come up for regularisation against the promotee quota for the purpose of promotion to the grade of Assistant Meteorologist, Group 'B';

(c) the ad hoc service would however, count eventually for the purpose of determining seniority after the promotee applicants are regularised against the posts arising in the subsequent years as Professional Assistants;

(d) the promotee-applicants who are appointed as Professional Assistants against the quota earmarked for them may be deemed to have been promoted regularly as Professional Assistants and as such would be due for consideration for promotion to the next higher grade of Assistant Meteorologist, Group-B after having rendered three years' regular service in the grade of P.A. and subject to meeting other conditions of eligibility in accordance with the Recruitment Rules."

9. In pursuance of this judgement, it would appear that the respondents issued a seniority list vide Office Memo. dated 17.10.1981 referred to in Annex. III. After considering the representations received in respect (first seniority list) of that seniority list, a revised seniority list was then issued vide endorsement dated 14.1.1992 (Annex. III). There is no explanation to indicate how the relative seniority of promotees and direct recruits has been

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fixed and what principle has been followed. The applicants are aggrieved because they allege that this ^{first} seniority list has been prepared in flagrant violation of the directions given in the Annex.I order of the Tribunal. It is alleged that the directions regarding quota rule have not been given effect to and that the earlier seniority list dated 25.1.1982 was merely updated and not changed as directed by the Tribunal.

10. This ^{first} seniority list was updated on 7.2.1992 by including the names of Professional Assistants appointed in the Cadre upto 1986 and regularised against the promotee quota of 1989. The seniority positions from Sl. Nos.655 of the first list published on 14.1.1992 underwent a change. The revised ^{second} seniority list has also been referred to as Annex. III and is at pages 67-76 of the paper-book. The assignment of places in that ^{second} seniority list also follows the pattern noticed in the earlier seniority list.

11. As the applicants feel aggrieved by the places assigned to them in the ^{two} seniority lists, they have filed this O.A., seeking the following directions:-

- (i) to quash and set aside the impugned seniority lists dated 14.1.1992 and 3.3.1992.
- (ii) to determine the inter se seniority of the applicants and other direct recruit professional Assistants appointed after 1981 and of the promotee PAs on the basis of statutory recruitment rules as proposed at Annex. IX in column No.6 and to implement the same within a time frame.

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It is only necessary to add that Annex. IX is the India Meteorological Department (Class I & Class II Posts) Recruitment Rules, 1968. Col.6 really refers to Rule 6 which reads as follows:-

"6. Approved Service - (1) Approved service in relation to any Grade means the period or periods of services in that Grade rendered after selection according to prescribed procedure, for a long term appointment to that grade and includes any period or periods.

(a) taken into account for purposes of seniority in the case of those appointed at the initial constitution of the service.

(b) during which an officer would have held a duty post in that Grade but for being on leave or otherwise not being available for holding such posts.

(2) Whenever a minimum service limit has been prescribed for promotion, the condition of minimum approved service will not apply in the case of persons who are senior to those who fulfil this condition notwithstanding that they may not have rendered the required service in the grade."

12. The respondents have filed a reply resisting the claims made in the application. They have raised a preliminary objection that the application is bad in as much as the parties who would be affected adversely if the O.A. is allowed, have not been impleaded. It is contended that the application is also barred by limitation. On merits, it is stated that the Government decided to temporarily suspend direct recruitment during the period from 11.1.1976 to 31.12.1980. After protracted correspondence and discussions, the U.P.S.C. agreed to treat the promotions made against the direct recruitment quota during the above period as regular in relaxation of the recruitment rules. In this connection, the respondents have annexed the letter

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dated 1.1.1990 of the U.P.S.C. to Government (Annex.A), wherein the Commission advised as follows:-

"3. The Commission, therefore, taking all other relevant factors into consideration, concur in the proposal of the department to:-

- (a) treat the promotions made against direct recruit quota vacancies during the period 1976 to 1980 as regular in relaxation of the recruitment Rules;
- (b) to treat the quota of direct recruit vacancies pertaining to the period 1982 to 1988 against which promotions have been made as backlog vacancies; and
- (c) in order to fill up these backlog of direct recruit vacancies pertaining to the period 1982 to 1988, Recruitment Rules may be amended by increasing 'Direct Recruit' quota from 50% to 75% and reducing the 'Promotion' quota from 50% to 25% till all the backlog of direct recruit vacancies pertaining to the period 1982 to 1988 are filled up. The Recruitment Rules will again be restored to its original state, i.e., filling up the posts 50% by promotion and 50% by direct recruitment after direct recruit quota backlog for 1982 to 1988 are liquidated. A proposal in this regard may be sent to the Commission at the time of restoring the Recruitment Rules to its original state.

4. It is requested that the recruitment rules for the post of Professional Assistant may be amended as above and a copy of the notification sent to the Commission for their information and record."

It is stated in the reply that, due to inadvertance, this was not brought to the notice of the Tribunal when the earlier judgement was delivered, disposing of OA-553/87 and OA-1264/87.

13. It is further stated that this position was brought to the notice of the Tribunal in a review petition but it was rejected on the ground that the earlier judgement was delivered on the basis of the facts made

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available to the Tribunal. The respondents contend that the review application was, therefore, dismissed only on technical grounds and not on merits. They, however, admit that they failed in their effort to obtain any relief from the Supreme Court in regard to the decision of the Tribunal rejecting the review petition.

14. The respondents contend that the impugned seniority lists are in full compliance of the directions given by the Tribunal and the principles enunciated by the Tribunal have been built in the seniority lists. Heavy reliance is placed by the respondents on sub-para.(c) of para.7 of the Annex.I order extracted in para.8 (supra). This observation has been construed to mean that, ultimately, the benefit of the earlier ad hoc service would have to be given to the promotee Professional Assistants for determining seniority.

15. The respondents also contend that all the PAs, both direct recruits and promotees, whose names find a place in the impugned seniority lists, have already been promoted to the next higher post of Assistant Meteorologist and hence, this application has now become infructuous and should be dismissed.

16. The applicants have also filed a rejoinder, reiterating their earlier stand and contending that they are entitled to a higher seniority on the basis of the principles decided in the earlier judgement of the Tribunal in the grade of PAs and, therefore, they are also entitled to much earlier promotion to the next higher grade of Assistant Meteorologist and for further similar consequential benefits.

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17. We have heard the learned counsel for the parties. Shri M.N. Krishnamani, learned counsel for the applicants, urged that the respondents have misconstrued the import of the observations made by the Tribunal in the earlier Annex.I judgement. He drew our attention to para.6 of the judgement (reproduced in para.7 above) and the conclusions of the Bench therein. In the face of the findings in para.6, the observation of the Tribunal in para.(c) of para.7 of the judgement (extracted in para.8 above) should be construed in consonance with this decision. It cannot be said that the Tribunal had, by oversight, forgotten whatever was stated in the earlier paras in favour of the direct recruits and suddenly came to the conclusion in the last paragraph that the promotees appointed in excess of their quota, could, nevertheless, count the ad hoc service rendered against the direct recruitment posts, when they are finally regularised. He contends that this observation has to be read down, if necessary, to only mean that as between the promotees, the dates of their ad hoc promotion, could be a relevant factor for determining the seniority.

18. We have carefully considered the rival submissions. We would like to dispose of the preliminary objections first.

19. Insofar as the objection regarding limitation is concerned, we are of the view that this has no force because this application has been filed in pursuance of the order dated 14.7.1992 (Annex.V) of the Supreme

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Court in the S.L.P. filed by the applicants. The objection cannot, therefore, be sustained.

20. The respondents have also objected that the parties likely to be affected, have not been impleaded. This has ^{parties} no merit. The affected/ were impleaded in OA-1264/87. The affected parties themselves filed OA-553/87. Both O.As were disposed of by the Annex.I judgement. The present O.A. is only an off-shoot of those proceedings where the grievance is about the violation of the judgement while preparing the seniority list. The ratio of the judgement of Supreme Court in Janardana's case is that it is not always necessary to implead the private parties, when the grievance relates to the action of the Government. That is the situation in the present case. However, the applicants filed MP-1444/93 impleading four persons as additional respondents in a representative capacity. This was allowed and they are in the party array as respondents 4 to 7. Hence, this objection is also without any substance.

21. There is no dispute about the finality of the Annex.I judgement of the Tribunal. We are of the view that the applicants are on firm ground when they contend that the Tribunal has given a finding that the promotees appointed against the direct recruitment vacancies slots, contrary to rules, (i.e., in excess of their own quota), cannot be regularised against those vacancies. They can be regularised only from later dates, when clear vacancies in the promotion quota arise. Therefore, such promotees will have to give way in the matter of seniority to the direct recruits. The question then is whether the observations in para.(c) of the judgement

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of the Tribunal, should be construed in the manner in which the respondents have sought to construe it or whether it should be read in conjunction with the clear findings rendered by the Tribunal in para.6 of the judgement, where they have considered the contentions made by the parties, as mentioned in the previous paragraphs. There can be no doubt about this question of interpretation. There can be only one answer to this question, namely, that the ultimate findings should, if the need arises, be read in consonance with the findings arrived at earlier in the judgement after considerable deliberations. Viewed thus, the observation in para.7(c) of that judgement cannot mean that the ad hoc service rendered by promotees on direct recruitment vacancies, to which they were appointed contrary to the rules and in disregard of the advice given by the U.P.S.C., should count for seniority in the rank of Professional Assistants after they are regularised. We, therefore, hold, as it was done on the earlier occasion in the Annex.I judgement, that the only benefit that accrues to such promotees is the enjoyment of such fortuitous out of turn appointment and nothing more. This will not count for the purpose of seniority in that grade whenever they are regularised.

22. That takes us to the plea of the respondents that the advice of the U.P.S.C. dated 1.1.1990 (Annex.A), should be taken note of by us, as the earlier review petition in respect of the Annex.I judgement based on such advice, was dismissed only on a technical ground. We are unable to agree. A copy of the review application filed by the respondents is at Annex.VI, wherein they

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have made a specific reference to the letter dated 1.1.90 of the U.P.S.C. and a prayer was made to modify the judgement and to treat the promotions made against the direct recruitment quota vacancies during the period from 11.1.1976 to 31.12.1980, as regular and valid in relaxation of the recruitment rules, in view of the aforesaid advice of the U.P.S.C. It is not correct that the Tribunal rejected the petition only on a technical ground, as mentioned in the respondents' reply. The Tribunal has specifically held that the letter of the U.P.S.C. dated 1.1.1990, was in the possession of the review petitioner/respondent on 8.1.1990, well before the judgement in the O.As was pronounced on 1.11.1990 and yet, the respondents were maintaining in their arguments that the U.P.S.C. had not agreed to the relaxation of the rules. In the circumstances, it is not now open to the respondents to again request us to consider that advice of the U.P.S.C. while deciding the question whether the seniority lists at Annex.III are in conformity with the Annex.I judgement. We have to hold that the Annex.I judgement has to be implemented de hors the Annex.A advice dated 1.1.1990 of the U.P.S.C.

23. We are clearly of the view that as the promotees had only a 50% quota in the matter of promotion to the grade of PAs, only 50% of those persons who were promoted during the period from 11.1.1976 to 31.12.1980, can be held to have been promoted against the quota reserved for promotees. The remaining 50% will necessarily have

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to be pushed down in the seniority lists. How this should be done, is a matter in regard to which the earlier judgement is silent. We have, therefore, to see what principle or pattern is discernible in the impugned seniority lists and whether it is violative of the Annex.I judgement. For this purpose, we confine our attention to seniority list dated 14.1.1992 (Annex.III) hereinafter called the first list. It is not necessary to look into the updated seniority list dated 7.2.1992 ('second list' for short), where the only change made is its updating.

24. For this purpose, we find it useful to give below the gist of the details given by the applicants at Annex.X - which has not been disputed - of ad hoc promotion and direct recruitment made during 1977-1986 in the cadre of PAs.:

- i) There was no direct recruitment upto 31.12.1980.
- ii) During the years 1977, 1978, 1979 and 1980, the number of persons promoted - after giving up direct recruitment - are 105, 109, 47 and 155 respectively.
- iii) Direct recruitment was resumed in 1981 but the actual appointment took place in 1982 - and resorted to in 1982 and 1983 ^{also.} In these three years the vacancies advertised were 60, 56 and 64 respectively. Particulars of direct recruitment are not given. During these three years also, there were promotions of 110, 45 and 11 in 1981, 1982 and 1983 respectively.

25. We may now see the first list dated 14.1.1992, Annex.III to find out the principles on the basis of which relative places have been assigned to the promotees of the years 1977 to 1983 and to the direct recruits of the years 1981 to 1983. For the sake of convenience, this is shown in the chart which is annexed at the end. in which the relevant information has been taken from the first seniority list (Annex.III) and the Annex.X statement filed by the applicants. At the same time, the violation of the Annex.I judgement in the manner of its implementation for preparation of the seniority list is being set out below.

25.1 The first direct recruit (DR) at S.No.882 assumed charge in 1982, i.e., on 10.9.1992. All persons promoted prior to 1982, have been placed above this first direct recruit. The first promotion without considering the direct recruits was made in 1977 and continued in the years 1978, 1979, 1980 and 1981. In all, 526 persons were promoted. These promotees have been assigned places from S.No.356 to S.No.881 in the first list. In our view, this is contrary to the directions given in the Annex.A-1 judgement. As the recruitment was to be 50% by promotion and 50% by direct recruitment, only 50% of the 526 promotees (263), can be held to have been promoted to the vacancies reserved for the promotees' quota. That is, only the persons from S.No.356 to 618 should be shown senior to the first D.R. of 1981. The remaining 263 persons were promoted to the direct recruitment vacancies for which direct recruitment was not held, violating the rules. According to that judgement, these persons can be accommodated only in the promotion quota

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in the succeeding years, i.e., in 1982 and thereafter.

25.2 An assumption appears to have been made by the respondents that the vacancies of direct recruits arose only in 1982.

This conclusion is wrong. For, the 263 D.R. vacancies from 1977 to 1981 (vide 25.1), are a backlog, which have to be filled up by direct recruitment in the first instance in the subsequent years. This is due to the fact that in the earlier Annex.I judgement, it has been clearly held that the recruitment rules did not stand modified during 1976 to 1981. Indeed, the U.P.S.C. has made this suggestion in para.3(b) of the Annex.R-1 letter produced by the respondents, which has been extracted in para.12 supra.

25.3 In 1982, only 29 persons were promoted. The total number of D.R. is, however, 44. In the first list, the 29 promotees and the first 29 DRs (total 58) have been placed at S.Nos.882 to 939. The remaining 15 direct recruits have been lumped together and placed at S.No.940 to 954.

Our observations are as follows:

(a) The quota-rotas rule has been followed.

That is a correct decision.

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- (b) But the 29 promotees who should be rotated with DRs, are not those shown at the odd number positions from S.No.883 to 939, but are the promotees who have been promoted earlier between 1977 and 1981 outside the promotees' quota and who have to be regularised on vacancies which arose after 1981. In other words, the 29 promotees from S.No.619 to 647 have to be given the 1982 ^{year} /of allocation and given places in rotation with the 29 DRs of that year.
- (c) For the 15 DRs at S.Nos.940 to 954 no promotees are available in 1992 for being given rota seniority. The principle followed is that if in a calendar year, the number of direct recruits and the number of promotees are equal, they should be assigned seniority on the basis of the quota-rota principle. If there are more persons in ~~anyone~~ category and they have been appointed to their own quota, they should be grouped together below the last person assigned seniority on the quota-rota principle.
- (d) It should also be mentioned here that the 44 direct recruits of 1982, should not be treated as having been appointed to the D.R. vacancies of 1982, which should be 29 only because there were 29 promotees.

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The 44 direct recruits have, on the other hand, been appointed to the cumulative carry-over of 263 D.R. vacancies of the period 1977 to 1981 referred to above.

The same comments also apply to the appointments by promotion and direct recruitment in subsequent years upto 1985 and the seniority assigned in the first list, as shown in the chart.

26. From the above discussion, it is clear that the Annex.III seniority list (i.e., the one prepared on 14.1.1992 as well as the one revised on 7.2.1992) is violative of the directions given in the Annex. A-1 judgement and, therefore, they are liable to be set aside and we do so. We, therefore, direct that the seniority should be prepared in accordance with the principles which flow from the Annex.I judgement which are as follows:-

- (a) Out of the persons promoted from 1977 upto 1981 - i.e., before direct recruitment was actually resumed in 1981 and the first direct recruit was appointed on 10.9.1982- only the seniormost 50% promotees should be treated as having been promoted to the vacancies reserved for promotees. They may be regularised in the years 1977 to 1981 against the vacancies reserved for the promotee quota. They will all be placed above the person who was first directly recruited in 1982.

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- (b) The second lot of 50% promotees shall be assigned places in the seniority list of 1982 and subsequent years against the vacancies reserved for promotees in those years and also following the rota principle to the extent direct recruits are available. They will be regularised in the years in which their names are shown in the seniority list.
- (c) Persons promoted in 1982 and subsequent years will rank below the promotees referred to in (b) above and will be given seniority on the same principle, according to their turn.
- (d) The total number of vacancies reserved for promotees in the years 1982 and onwards shall be equal to the number of persons actually promoted in these years as shown in col.4 of the chart. Promotees referred to in (b) and (c) who cannot be regularised against these vacancies because of their ~~as~~ larger number as compared to the vacancies, shall be regularised in subsequent years against the vacancies reserved for the promotees quota.
- (e) When direct recruitment was resumed in 1981 and recruitment actually made in 1982, there were a large number of backlog vacancies to which recruitment should be made in the first instance. That number

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is equal to 50% of the total number of persons promoted between 1977 and 1981, without resorting to direct recruitment. This works out to 263.

- (f) In addition, the number of vacancies reserved for direct recruits in 1982 and onwards will be equal to the vacancies reserved for promotees as computed in (d) above.
- (g) The persons directly recruited in 1982 shall be assigned places below the promotees mentioned in (a) above.
- (h) Persons directly recruited in each year from 1982, shall be assigned places in rotation with the promotees referred to in (b) above to the extent there are vacancies for promotees in these years as computed in (d) above.
- (i) Those DRs who cannot be assigned places on rota principle - on the ground that promotees appointed to their quota are not available - shall be lumped together, below the last person assigned seniority on rota basis.
- (j) Promotees who are found to have been promoted in excess of their quota - i.e. to the vacancies of D.R.- shall be treated as ad hoc appointees only. If direct recruitment takes place to these vacancies, it is possible that on the appointment of

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the direct recruits, such promotees may have to be reverted. We add that such a situation is conceptually possible, but not likely to occur, in view of the tardy and halting pace of direct recruitment. In the unlikely event of such a situation materialising, we direct that such promotees shall not be reverted on this account as government is primarily to be blamed for this situation. They shall be accommodated against temporary supernumerary posts which should be created for the purpose, if necessary. They shall be regularised when vacancies arise in future in the promotees' quota, according to their turn and on such regularisation, an equal number of supernumerary posts shall stand abolished.

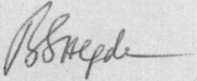
27. We direct that such a seniority list shall be prepared in accordance with the principles laid down in para.26 within two months from the date of receipt of this order and published with a memo. setting out these principles and stating that they have been followed. On the basis of this revised seniority list, promotions made to the higher grades shall be reviewed by review DPCs for each year - within a further period of three months - and the persons eligible for promotion shall be given such promotion. In case such persons have been promoted from later dates, the promotion based on the review

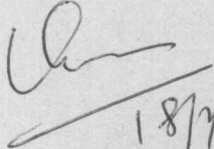
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D.P.C. recommendations shall be on notional basis from the due date and the actual effect on pay shall be given from the actual date of promotion. There shall be no reversions of persons who may be found to be not entitled to promotion and the directions given in para.26(j) shall mutatis mutandis be followed in such cases also.

28. O.A. is disposed of with the above orders and directions.


(B.S. Hegde)
Member(J)


18/7/94
(N.V. Krishnan)
Vice-Chairman(A)

SLP