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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Registration O.A.No.36 of 1988

Jagdish Singh Changesh ..... Applicants  
and Others

Versus

Union of India and ..... Respondents.  
Others.

H on.D.S.Misra, A.M.

Hon. G.S.Sharma, J.M.

(By Hon.D.S.Misra, A.M.)

This is an application under Section 19 of the Administrative Tribunals Act XIII of 1985 against the order of seniority dated 24.4.1987 passed by the Govt. of India, respondent No.1 fixing the seniority of respondent Nos. 3 to 46 in the IPS cadre. The applicants were directly recruited to the IPS and have felt aggrieved by the impugned order passed by respondent No.1. Their case is that the respondent Nos. 3 to 46 (hereinafter referred to as the private respondents) were placed in the select list after the appointment of the applicants in the IPS; that the private respondents were appointed to the special grade of U.P. Police Service vide notifications dated 19.2.74 and 28.11.75 (Annexures - 3 & 4) issued by the Govt. of U.P., respondent No.2; that the private respondents' appointment to the post of Superintendent of Police was nothing but temporary local arrangement vide Police Gazette dated 27.2.74 (Copy Annexure-2); that the seniority given to the

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private respondents by respondent No.1 is illegal and liable to be quashed.

2. In the reply filed on behalf of respondent No.1 it is stated that the seniority of the private respondents was ~~fixed~~ determined on the basis of information furnished by respondent No. 2 and in terms of rules and principles laid down by the Hon'ble Supreme Court of India on the subject; that no illegal benefits have been given to the <sup>private</sup> respondents; that the petition is devoid of any merit and deserves to be dismissed.

3. In the reply filed on behalf of respondent No.2, it is stated that due to paucity of <sup>available</sup> cadre ~~of~~ officers they were compelled to appoint State Police Service Officers against senior duty posts even though they did not figure in the select list; that this was done in the public interest and due to exigencies of administration; that the limitation of the number of posts to be filled by promotion under Rule 9 of the IPS (Recruitment) Rules, 1954 is on the appointment of the State Police Service Officers in the IPS and not on the number of posts held by them; that as regards the special grade posts in the State Police Service the position stated by the applicants has not been accepted by the Ministry of Home Affairs in their speaking order dated 1.1.86 (Copy Annexure-CA.I) to the Counter Affidavit filed by respondent No.1;

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that no illegality has been committed in furnishing information to the Union of India and the seniority of private respondents has been correctly determined and no illegal benefits have been given to the respondents; that the petition is devoid of any merit and deserves to be dismissed.

4. In the reply filed on behalf of the private respondents it is stated that IPS (Appointment by Promotion) Regulations, 1955 makes it obligatory that a select list of State Police Service Officers eligible to be promoted in IPS shall be prepared every year; that the respondent Nos. 1 & 2 arbitrarily failed to observe and comply with the said mandate of the rules and did not prepare the select list as contemplated under the regulations; that even while preparing the select list the officers of the State Police Service who were entitled to be considered for being included in the select list were not at all considered and their right of consideration was denied; that they held and occupied senior posts in the IPS on account of non-availability of suitable direct IPS officers and the select list officers; that they were appointed by the State Govt. in exercise of its power under Rule 9 of IPS (Cadre) Rules and necessary documents were sent to the Central Government for obtaining their concurrence inasmuch as the said promotions were likely to be continued for more than three months; that the contentions of the applicants that they were appointed to the senior posts

*[Handwritten signature]*

of IPS much later than the applicants is absolutely false and incorrect; that their seniority in IPS was not determined by the Govt. of India for unreasonably long time and hence various representations were made requesting determination of their seniority.

5. In the rejoinder affidavit filed by the applicants it is stated that even though suitable directly recruited IPS officers were always available for posting to cadre posts but respondent No.2 did not post them to cadre posts and instead posted State Police Officers by resorting to favouritism. It is also stated that the appointment of the private respondents to cadre posts was not made under Rule 9(1) of the Cadre Rules and the promotee officers have been unduly benefitted at the expense of the applicants.

6. An application was filed on behalf of the applicants for production of original service records of the applicants and relating to respondent Nos.3 to 46. The learned counsel for respondent No.2 agreed to produce these documents if the same were available. In a letter dated 9.5.1988 received from the Joint Secretary to the Government of U.P., Home Department addressed to Deputy Registrar of this Tribunal, it is stated that the records sought to be produced are quite old and

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most of the files have been weeded out as per prescribed procedure. It is also stated that photo copies of notifications regarding the appointment in respect of 28 officers have been obtained from the office of the Accountant General U.P. and the same were being filed.

7. Out of the 9 applicants in this case, applicant Nos 1 & 2 were made respondents in O.A. No.626 of 1987. Similarly, out of the 44 private respondents in this case, 7 respondents viz. respondent Nos. 15, 16, 17, 18, 23, 27 and 29 are the applicants in O.A. No.626 of 1987. The points raised in both the applications are substantially common points and were argued by the learned counsel for the parties at the same time. While in O.A. No.626 of 1987 the applicants have challenged the seniority list dated 24.4.87 and prayed for being given higher seniority in O.A. No.36 of 1988, the applicants have ~~also~~ challenged the seniority list dated 24.4.1987 and prayed for quashing the alleged higher seniority given to the private respondents including <sup>the</sup> seven applicants in O.A.No.626 of 1987. We have examined the various contentions of the parties and given our findings on each of these contentions in our judgement in O.A.No.626 of 1987. These findings would be applicable in the instant case also.

8. For the reasons given in O.A.No.626/87, we

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are of the opinion that there is no merit in the petition and the same is dismissed without any order as to costs.

*S. Narasimha*

MEMBER (J)

*B. P. Mohan*

MEMBER (A)

Dt/ 9 12-1988/