

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH

Original Application No. 1648 of 1992

B.C. Tewari Petitioner

Versus

Union of India and Ors Respondents

connected with

Original Application No. 1649 of 1992

Rajeev Asthana Petitioner

Versus

Union of India and Ors Respondents

CORAM:

HON'BLE MR. JUSTICE R.K. VARMA, V.C.

HON'BLE MISS. USHA SEN, MEMBER(A)

(By Hon. Mr. Justice R.K. Varma, V.C.)

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By this petition filed under section 19 of the Administrative Tribunals Act the petitioners who are officers of State Forest Service of Uttar Pradesh have sought issuance of a mandamus directing the respondents to prepare yearwise select list since 1984 in accordance with the regulations 5,6 and 7 of I.F.S.(Appointment by Promotion) Regulations, 1966 and to make appointment in promotion quota of U.P. Cadre of I.F.S from the select list so prepared for the year 1984 and onwards from the date it fell due but could not be done because of pendency of court cases in various courts and to give all consequential benefits in respect to seniority and pay etc.

2. The respondents stand in their counter is that no finalised seniority list has been available with the State Government of U.P. with the result that convening of the Selection Committee for consideration for promotion to the I.F.S over a period of about a decade has not been possible.

3. On 21.12.93 the learned counsel for the petitioners pressed for an interim order directing the respondents to convene meeting of the Selection Committee in accordance with the regulations for preparation of the Select list for the year 1984 and onwards within a specified time and a direction to the respondents not to make promotion for senior posts in I.F.S till then. The learned counsel for the petitioners also submitted that the seniority^{list}/with the State was being followed for the purposes of promotion of officers in the State Forest Services. It was, however, urged by the respondents that the State Govt. had a difficulty in preparing a Select list on the basis of the seniority list prepared by the State Govt. in pursuance of the direction of the Supreme Court made in the case of K.C. Joshi and Ors Vs. Union of India and Ors(A.I.R 1991 S.C. 284)

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4. A supplementary affidavit dated 19.1.94 has been filed on behalf of respondent no.2 State of U.P. with Annexure S.A.1 which is a copy of judgment of the Supreme Court dated 4.1.1994 rendered in the Contempt. petition Nos. 65,100 and 126 of 1992 in Writ petition (civil) No. 626 of 1986 (Makardhwaj Pal and Ors ~~xxx~~ Vs. Smt. Neera Yadav and Ors) In the aforesaid judgment the Supreme Court observed thus:

In the light of the respective contentions

the question arises whether the determination of the seniority is in accordance with the directions issued by this court. In the light of the background scenario, we cannot strictly take it to be a case of contempt but in working out the directions issued by this court the State Govt committed mistake in law.

5. In the operative part of the judgment the Supreme Court while disposing of the contempt petitions has directed the State Govt. to undertake fresh exercise in the light of the directions contained in the judgment and complete the same within a period of four months from the date of the receipt of this order.

6. In the above circumstances the counsel for the Respondent No.2 State Govt. of U.P. has submitted that the list prepared by the State Govt. in pursuance of the direction of the Supreme Court made in the case of K.C. Joshi (Supra) does not survive and as such the present petition of the petitioners has been rendered infructuous as there is no proper seniority list available for convening the meeting of the Selection Committee for preparation of the Select List for promotion of the state officers to the I.F.S Cadre. We think that in the situation obtaining after the judgment in the case of Makardhwaj Pal (Supra) this petition has been rendered infructuous as no proper seniority list is in existence presently. This petition, is therefore, dismissed as having become infructuous. However, if and when a

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proper seniority list of State Forest Officers is finalised the petitioner shall be at liberty to approach the respondents by representation for the reliefs which they have sought in this petition and the respondents shall deal with the representation in accordance with the Regulations of I.F.S (Appointment by Promotion) Regulations 1966 for making appointments in Promotion quota of U.F. Cadre of I.F.S.

7. This petition, is accordingly disposed of as having become infructuous without any order as to costs.

Ush. Sen
Member (A)

R. K. Varma
Vice Chairman

Dated: April 2nd 1994

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