

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH  
JAIPUR.

O.A.No.27/93

Date of order: 18.2.93

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S.S.Tripathi

: Applicant

Vs.

Union of India & Ors. : Respondents.

Mr.R.N.Mathur

: Counsel for applicant.

CORAM

Hon'ble Mr.Justice D.L.Mehta, Vice Chairman

Hon'ble Mr.B.B.Mahajan, Member (Adm.).

PER HON'BLE MR.B.B. MAHAJAN, MEMBER (ADM.).

S.S.Tripathi, has filed this application under Sec.19 of the A.Ts Act for issuance of directions to the Selection Committee constituted under Rule 5 of the I.A.S. Promotion Regulations for preparation of the list of suitable officers for promotion to I.A.S. to consider names of R.A.S. officers on the basis of the seniority position as it existed before the DPC convened for promotion in the selection scale of Rajasthan Administrative Service (RAS) against vacancies of 1987-88. According to the applicant, he is a member of the Rajasthan Administrative Service (RAS). He was promoted to the senior scale of RAS on 20.11.78. He was thereafter due to be considered for promotion to the selection scale in R.A.S. The DPC which considered the suitability of officers of RAS for promotion to the selection grade did not recommend the applicant for promotion. The applicant challenged this decision of the DPC before the Rajasthan Civil Services Appellate Tribunal constituted under the Act of Rajasthan State (State Tribunal, for short). The State Tribunal did not quash

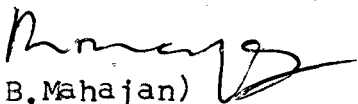
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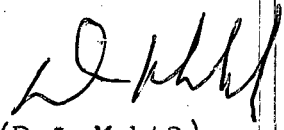
the promotions given in the selection list but directed for a review DPC to be convened within a period of 4 months. The applicant filed a writ petition in the Hon'ble Rajasthan High Court for issue of directions to the State of Rajasthan for implementing the directions of the State Tribunal. The State Govt. has also filed a writ petition against the judgment of the State Tribunal before the Hon'ble Rajasthan High Court. Both these writ petitions are pending before the High Court and no interim direction has been issued thereon. The applicant had filed a second stay application wherein the Hon'ble High Court on 25.5.92 (vide Annexure:A/1) ordered that the promotion of any junior officer to the petitioner if made shall be subject to the decision of that writ petition. The contention of the applicant is that since the State Tribunal had directed a review DPC to be held, the seniority list of Rajasthan Administrative Service as it exists at present is not a correct seniority list and the select committee constituted under the I.A.S Promotion Regulation, 1955 should consider the seniority position as it existed before the promotions to the selection grade of RAS were made in accordance with the recommendations of the DPC held in 1987-88.

2. We have heard the counsel for the applicant. he has referred to the Regulation 5(2) of the IAS Promotion Regulation which provides that the Committee shall consider for inclusion in the list of suitable officers for promotion to IAS, the case of members of the State Civil Service in the order

of seniority in that service ... His plea is that the seniority which the Select Committee should consider for that purpose is the correct seniority which the Select Committee should consider for that purpose is the correct seniority which should reflect the decision of the State Tribunal. There is no force in this contention. The Select Committee has to proceed on the basis of the seniority list of officers in the State Civil Service as it exists at the time of its consideration. It cannot take into account the changes in the seniority list which may arise in future if the decision of the State Tribunal is implemented. The applicant has not yet been promoted to the Super Time Scale in the RAS nor has a review DPC been constituted for assessing the suitability for promotion to the selection grade in the RAS from a date earlier than the date on which he was actually promoted. Until his suitability for promotion to the selection grade in the RAS from an earlier date is determined by the review DPC and he is promoted to the selection grade from an earlier date he can not get the benefit of higher seniority. The Select Committee has necessarily to consider the names of various officers of the State Civil Service in the order in which their names appear in the seniority list at the time of its consideration. If any modifications in this seniority list take place subsequently there may be a case for review by the Select Committee after such modification in the select list but the work of the Select Committee cannot be stopped pending decisions on all the disputes that may be existing in regard to the seniority list.

3. In view of the above, there is no force in the O.A. The same is accordingly dismissed in limine.

  
(B.B. Mahajan)  
Member (Adm.).

  
(D.L. Mehta)  
Vice Chairman.

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