

**CENTRAL ADMINISTRATIVE TRIBUNAL,**  
**JABALPUR BENCH,**  
**JA BALPUR**

**Original Application No.287 of 2006**

**Date of Decision 8.12.2006.**

Krishna Kumar Khare                      -Applicant

Shri S.Paul                                      -Advocate for the applicant

**VERSUS**

**Union of India and others                      - Respondents**

**Advocate for the respondents**

Shri S.K.Mishra on behalf of Shri R.S.Siddiqui for respondent-  
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Coram:

**Hon'ble Dr.G.C.Srivastava,Vice Chairman(A)**

**Hon'ble Shri A.K.Gaur, Judicial Member**

1. Whether Reporters of local papers may be allowed to see the order?                      - Yes / No
2. To be referred to the Reporter or Not?                      Yes / No
3. Whether it needs to be sent to the Principal Bench for circulation to other Benches of the Tribunal?                      Yes / No.

  
**Dr.G.C.Srivastava)**  
**Vice Chairman**

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**CENTRAL ADMINISTRATIVE TRIBUNAL,**  
**JABALPUR BENCH,**  
**JA BALPUR**

**Original Application No.287 of 2006**

**Jabalpur this the 8<sup>th</sup> day of December, 2006.**

**Hon'ble Dr.G.C.Srivastava, Vice Chairman**  
**Hon'ble Shri A.K.Gaur, Judicial Member**

Krishna Kumar Khare, S/o Shri U.S. Khare, Aged about  
48 years, Bungalow no.A-6 Chachai, District Annupur,  
M.P.

**-Applicant**

(By Advocate – Shri S.Paul)

**VERSUS**

1. Union of India through its Secretary, Ministry of  
Personnel, Public Grievances & Pension (Department of  
Personnel & Training), New Delhi.

2. Union Public Service Commission, Through its  
Secretary, Dhoulpur House, New Delhi.

3. Government of Madhya Pradesh, Through its Principal  
Secretary, General Administration Department, (IAS  
Establishment), Vallabh Bhawan, Bhopal.

4. Shri P.G.Gillore, IAS, C/o Principal Secretary, General  
Administration Department, (IAS Establishment),  
Vallabh Bhawan, Bhopal.

**-Respondents**

(By Advocate – Shri S.K.Mishra on behalf of Shri R.S.Siddiqui)

**ORDER**

**By Dr.G.C.Srivastava, VC.-**

This Original Application has been filed alleging erroneous  
implementation of Regulation 5(2) of the Indian Administrative

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Service (Appointment by Promotion) Regulations, 1955 (hereinafter referred to as "the Promotion Regulations") and consequent erroneous decision about zone of consideration in connection with the selection committee meeting held on 9.4.2005 for filling up vacancies as on 1.1.2003. Accordingly, the applicant has prayed for the following relief:

"7(iv) While implementing Reg.5(2) finding of the Respondents treating Res.no.4 Joint Collector senior to petitioner Add.Collector be quashed & zone of consideration also be quashed.

(v) While implementing Reg.5(2) finding of the selection committee treating Res.no.4 Joint Collector senior to petitioner Add.Collector (Super Selection Grade) be quashed.

(vi) Quash the notification dated 06 June,2005 Annexure A/1 by which select list of 2003 was published to the extent it includes/ contains the name of private respondent.

(vii) Consequently, command the respondents to hold a review DPC in the event of petitioner's selection, he be appointed in IAS from 01.01.2003 with all consequential benefits including seniority, promotion, arrears of pay etc."

2. The facts of the case are that a selection committee meeting was held on 9.4.2005 to consider induction of Madhya Pradesh State Administrative Service (for short 'MP SAS') officers in the IAS for the vacancies as on 01-01-2003. Since six vacancies were available, the zone of consideration was to comprise 18 members of the SAS. The applicant along with respondent no.4 was included in the zone of consideration. The grievance of the applicant is that he was placed at no.8 in the zone of consideration whereas respondent no.4 was placed at no.1. The contention of the applicant is that although, respondent no.4 was also appointed as Deputy Collector on 8.2.1980 and the applicant was appointed as

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such on 1.6.1982, the applicant superseded respondent no.4 subsequently, as he was appointed as Joint Collector Class-I as well as in subsequent promotions as Additional Collector and in Super Selection Grade much before respondent no.4. In fact, respondent no.4 could not even be promoted as Joint Collector till the date of the selection committee meeting. Accordingly, applicant should be treated senior to respondent no.4 and deserves to be promoted before him. Consequent to the holding of the selection committee meeting, respondent no.4 along with 4 others was selected for induction in the IAS and a notification to that effect was issued on 6.6.2005 (annexure A-1). The applicant has prayed for quashing of the zone of consideration and also the notification dated 6<sup>th</sup> June, 2005.

3. Controverting the contentions of the applicant, respondent no.3 in its reply stated that respondent no.4 was placed on the top of zone of consideration because he was the senior most SAS officer. The seniority of members of SAS is determined on the basis of provisions of M.P. Civil Services (General Conditions of Service) Rules, 1961. The respondents denied that grant of senior scale, selection scale and super selection grade has any relevance to determination of seniority which is based on the date of confirmation in the SAS.

4. We have heard the arguments advanced by the learned counsel of both the parties.

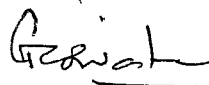
5. The learned counsel for the applicant took considerable pains that seniority should not be based merely on the date of confirmation. He also cited apex court's ruling in **State of Rajasthan Vs. Fateh Chand Soni**, 1995 SLO Case No.352 = 1996 (1) SCC 562; **Director Central Rice Research Institution, Cuttack and another Vs. Khetra Mohan Das**, 1994 Supp (3)

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SCC 595 Tarsem Singh and another Vs. State of Punjab and others, 1994) 5 SCC392; and many others. In this context, it may be pointed out that regulation 5(2) of the Promotion Regulations, lays down clearly that in the zone of consideration "members of the State Civil Service shall be included in the order of seniority". It is also admitted that as per Rule 12 of the M.P. Civil Services (General Conditions of Service) Rules, 1961 seniority is to be reckoned with reference to the date of confirmation in the service. It is admitted by the applicant that if this criterion is followed, respondent no.4 is senior to him, but the applicant challenges this principle on the ground that seniority has to be determined on the basis of subsequent promotions and not on the basis of date of confirmation in the service. In our view this is an issue which falls squarely within the jurisdiction of the State Government and it is not for this Tribunal to adjudicate <sup>on</sup> this issue. We have only to see whether regulation 5(2) of the Promotion Regulations has been fully complied with or not. It is nobody's case that the zone of consideration has not been decided as per the existing rules or that the members of the SAS included therein are not as per the gradation list or that the seniority has not been determined on the basis of the existing rules. In view of this, we do not find any irregularity in the selection process and there is no ground warranting our interference therein. Accordingly, the OA is liable to be dismissed.

6. In the result, the OA is dismissed, however, without any order as to costs.

  
**(A.K. Gaur)**  
**Judicial Member**

  
**(Dr. G.C. Srivastava)**  
**Vice Chairman**

पृष्ठांकन सं. ओ/व्या.....जबलपुर, दि.....

प्रतिदिशि अन्वेषित:-

(1) सचिव, जला सहायताय काम एम्प्लोयमेंट, जबलपुर

(2) आर.ए.सी./सी.सी.ए.ए. के कार्यालय

(3) प्रवर्तनी सी.सी.सी.ए.ए. के कार्यालय

(4) वंशपात्र, जे.ए.ए.ए., जबलपुर कार्यालय  
सूचना एवं आवश्यक कार्रवाई हेतु

उप रजिस्ट्रार

S. Paul B.A. O.B.D

S.K. Mishra

S.P. Singh

CM (Labour)

Issued  
11/12/06