

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
CIRCUIT COURT SITTING AT BILASPUR

Original Application No. 447 of 2004

JABALPUR, THIS THE 22nd DAY OF AUGUST, 2005.

Hon'ble Mr. M.P. Singh, Vice Chairman
Hon'ble Mr. Madan Mohan, Judicial Member

1. Jayant Kumar Thorat, S/o Shri A.B. Thorat, aged About 50 Years, Occupation-service Presently Posted as Superintendent of Police, Anti Corruption Bureau, Raipur District Raipur (CG)
2. Neel Kant Singh Thakur S/o Late Shri Thakur Ram Krisna Singh, aged about 49 Years, Presently Posted as Commandant 5th BN CG Armed Police Force, Jagdalpur.
3. V.K. Choubey, S/o Late D.P. Choubey, aged About 44 years, Occupation-service Presently Posted as Superintendent of Police, (City) Raipur (C.G.)

Applicants

(By Advocate – Shri Ashish Shrivastava on behalf of
Shri Manindra Shrivastava)

V E R S U S

1. Union of India, through the Secretary, Ministry of Home Affairs, New Delhi.
2. Ministry of Personnel, Public Grievance & Pension, Department of Personnel & Training, through Secretary, New Delhi.
3. Union Public Service Commission thro' Secretary Dholpur House, New Delhi.
4. State of Madhya Pradesh Through Secretary, State Re-organization Cell Vallabh Bhawan, Bhopal.
5. State of Chhattisgarh, Through Secretary General Administration Department, Mantralaya, D.K.S. Bhawan, Raipur (Chhattisgarh)

Respondents

(By Advocate – Shri S.P. Singh for respondents Nos 1 to 3
Shri Ajay Ojha for respondent No.5)



ORDER

By M.P. Singh, Vice Chairman –

M.A.No.638/2004 for joining together filed under Rule 4(5)(a) of the Central Administrative Tribunal (Procedure)Rules, 1987 is considered and allowed.

2. By filing this Original application, the applicants have sought the following main reliefs :-

“[a] Direct the respondents that only 16 officers promoted to the IPS be retained in Chhattisgarh as on 1.11.2000, in accordance with the recommendations of the U.C. Aggarwal committee and guidelines issued by the Govt. of India and that further 2 vacancies be made available in the IPS cadre for the State of Chhattisgarh consistent with the notification dated 21.10.2001.

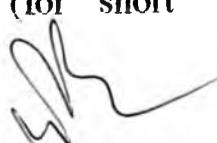
[b] Direct the respondents to send back the excess 4 promoted IPS officers back to Madhya Pradesh after rectifying the initial error by having 43 RR officers instead of 39 whereby the total strength of 59 IPS officers as on 1.11.2000 will be complete.

[c] Direct the respondents to consider for promotion to IPS as on due date and at least with effect from the date prior to the date from which junior SPS officers were considered and promoted to IPS cadre in the State of M.P.

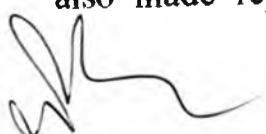
[d]to direct that the vacancies of IPS quota lying in the State of M.P. may not be filled up by way of promotion during the pendency of this application/case.

[e] It may be further directed that since the vacancies which are made available and vacancies which are available, consideration of promotion may be made forthwith and appropriate orders may be passed”.

3. The brief facts of the case are that the applicants are State Police Service officers of State of Chhattisgarh. According to the applicants they are eligible for promotion to the Indian Police Service (for short ‘IPS’) in accordance with the provisions of IPS



(Appointment by Promotion) Regulations, 1955 (hereinafter referred to as 'the Promotion Regulations'). Consequent upon the formation of new State of Chhattisgarh in pursuance of the Madya Pradesh Reorganization Act, 2000, the allocation of IPS officers was made as per the instructions of the Ministry of Personnel, Govt. of India. 59 (41 direct recruits and 18 promotees) officers were directed to be allocated to the State of Chhattisgarh by the U.C. Agarwal Committee, which was constituted by the Government for determining the allocation of All India Service officers between the States of Madhya Pradesh and Chhattisgarh. However, in violation of the recommendations of the U.C. Agarwal Committee, 39 direct recruits and 20 promotee officers were allocated to the State of Chhattisgarh cadre. This is precisely the grievance of the applicants. They have stated that it would adversely affect the chances of promotion of the officers to be promoted to the IPS cadre of State of Chhattisgarh. According to the applicants, not only 41 direct recruits and 18 promotee officers were to be sent to Chhattisgarh, as per the U.C. Agarwal Committee's recommendations, the excess deficit officers were to be taken into account while allocating the cadre. As the direct recruit officers of Madhya Pradesh cadre were surplus by 9 and the promotee officers were deficit by 9, the strength of IPS officers that ought to have been allocated to the State of Chhattisgarh taking into account the surplus/deficit would actually be 43 direct recruits and 16 promotees. It is further stated by the applicants that "the State of Chhattisgarh having realized that both the matter of allocation of officers and also that of posts in the SPS as also the IPS, illegality has been committed inasmuch as the same is in violation of the notification dated 21.10.2000, had also sent a memorandum to the State Advisory Committee on 28.5.2001. D. O. letters were also sent on 7.8.2001 and 20.8.2001 by the Government of Chhattisgarh to the Government of India, highlighting this anomaly". The applicants have also made representations to the Chief Minister of the State of



Chhattisgarh, and also to the Director General of Police highlighting their grievances. The applicants have also made representation to the Central Government to redress their grievances.

3.1 The applicants have also stated that, "it is in the interest of all concerned and also in conformity with the guidelines set out by the Government of India in the terms of the U.C. Agarwal Committee that the four promoted IPS officers in excess of 16 IPS (promoted) officers allocated to Chhattisgarh State being sent back to Madhya Pradesh and only there after the D.P.C. be set up for inducting the SPS officers to fill in the vacancies created in the IPS cadre (promoted) in both Chhattisgarh as well as Madhya Pradesh or in the alternative four posts may not be kept vacant to accommodate the officers who are likely to be sent back to Madhya Pradesh". They have further submitted that they are adversely affected as the respondents have illegally sent 4 promotee IPS officers to Chhattisgarh as against sanctioned strength of 18 posts without even following the equitable formula laid down by UC Aggarwal Committee by not allowing the vacancies to remain unfilled. Hence this Original Application.

4. The respondent-Union of India in their reply have stated that the authorized strength of erstwhile IPS cadre of Madhya Pradesh as on 31.10.2000 was 278 consisting of 194 Direct Recruits and 84 Promotees. As against this, 203 Direct Recruits and 75 Promotee IPS officers were in position. The authorized strength of newly created IPS cadre of Chhattisgarh was determined as 59, consisting of 41 Direct Recruits and 18 Promotees. However, as in erstwhile IPS cadre of Madhya Pradesh, 203 direct recruits were in position against authorized strength of 194 and only 75 promotee IPS officers were in position against authorized promotion quota of 84, both excess and shortfall had to be proportionately distributed among both the States, as per the U.C. Aggarwal Committee's recommendation. As such IPS cadre of Chhattisgarh was to be given 43 direct recruits against its authorized direct recruitment quota of 41 and 16 promotee IPS



officers against authorized promotion quota of 18. The recommendations of the Advisory Committee constituted under the Madhya Pradesh Reorganization Act,2000 were considered and the norms suggested by them for cadre allocation of AIS personnel accepted by the Central Government subject to the following modification that :

“such officers, who had opted for Chattisgarh cadre but have been recommended for allotment to Madhya Pradesh cadre according to the roster are to be allotted to Chattisgarh cadre to fill up the gap between the proposed allotment and the authorized cadre strength of Chattisgarh cadre and further that any gap which still remains in Chattisgarh cadre be filled through inter-cadre deputations”.

[Copy of DOP&T's note No.13013/5/2000-AIS(I) dated 31.10.2000 is filed as R-1]

As per the recommendations of the U.C.Agarwal Committee, only 53 IPS officers (37 direct recruits and 16 promotees) could be got allocated to IPS cadre of Chattisgarh leaving a cadre gap of 6 IPS officers. The gap was mainly due to the fact that against recruitment of allocation of 14 insider directly recruited IPS officers to IPS cadre of Chattisgarh, only 9 directly recruited insider IPS officers were available for allocation to IPS cadre of Chattisgarh. Shortage of one IPS officer was due to keeping the couple (wife & husband) in one State.

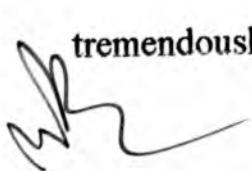
4.1 The respondent no.1-UOI have further stated that equal number of IPS officers i.e. six (2 direct recruits and 4 promotees) who had opted for allocation to IPS cadre of Chattisgarh, but could not be allocated due to roster, were available for allocation to IPS cadre of Chattisgarh to fill up the gap in the authorized cadre strength of Chattisgarh and the proposed allocation. As such, all the six (2 direct recruits and 4 promotees) who were willing for allocation to IPS cadre of Chattisgarh, but could not be allocated due to roster, were allocated to IPS cadre of Chattisgarh as per the modification approved by the Central Government while accepting the recommendations of



U.C.Agarwal Committee. Thus, two promotee IPS officers were initially allocated to IPS cadre of Chattisgarh in excess of its authorized promotion quota of 18 against the two unfilled posts of direct recruits. At the relevant time i.e. on 31.10.2000, neither the State Police Service cadre of erstwhile State of Madhya Pradesh had been bifurcated between the Reorganized State of Madhya Pradesh and the newly created State of Chattisgarh, nor was there any valid seniority list of State Police Service officers of Chattisgarh. Thus, none of these applicants was eligible for consideration for inclusion of his name in the select list for subsequent appointment to IPS.

4.2 The respondent no.1-UOI have further submitted that the State Police Service cadre of erstwhile State of Madhya Pradesh has been bifurcated between the re-organized State of Madhya Pradesh and the newly created State of Chattisgarh only on 16.9.2002 vide Govt. of India order No.14/109/2002-SR(S) (Annexure-R-2). Thus, before bifurcation of State Police Service cadre, there was no valid seniority list in respect of State Police Service officers of Chattisgarh and, as such, no State Police Service Officers including the applicants were eligible for consideration for promotion to IPS. By the time the State Police Service cadre was bifurcated on 16.9.2002 and valid seniority list drawn, both the excess promotee IPS officers allocated to IPS cadre of Chattisgarh against two unfilled vacancies of direct recruits had already vacated the said posts.

4.3 The respondent no.1 have further submitted that strength and composition of IPS cadre of Chattisgarh has been reviewed and revised by the Central Government vide Notification No.11052/8/2003-AIS(II)-A dated 30.1.2004 (Annexure-R-3). The total authorized strength of IPS cadre of Chattisgarh has been raised from 59 to 81. The direct recruitment quota has been increased from 41 to 57 and the promotion quota has been raised from 18 to 24. Thus, the promotional prospects of the applicants have improved tremendously rather than diminishing as claimed by the applicants.



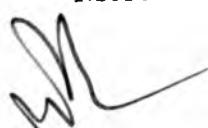
Therefore, the applicants would be eligible for consideration for inclusion of their names in the select list for subsequent appointment to IPS against the posts increased in the promotion quota in accordance with the Promotion Regulations.

4.4 The respondent no.1-UOI have further filed an additional affidavit on 25th July,2005 stating that the applicants belong to State Police Service and were not member of the IPS as on 31.10.2000. Therefore, the instant application filed against the respondents' notification dated 31.10.2000 suffers with jurisdiction and liable to be dismissed for want of jurisdiction. It is further stated that the Tribunal has no jurisdiction because the applicants are not members of the IPS cadre on 31.10.2000.

5. Heard the learned counsel of parties and we have also given careful consideration to the rival contentions.

6. The main grievance of the applicants is that although the total IPS strength in the State of Chhattisgarh is full but the short fall of 9 IPS officers in promotion quota and excess of 9 officers in direct recruitment quota should have been equally divided between the two States, meaning thereby that two less number of IPS promotion quota and two more number of IPS direct recruits ^{officers} should have been allocated to the State of Madhya Pradesh. This would not have adversely affected the career prospects of the applicants for induction into IPS cadre of the State of Chhattisgarh.

7. It is an admitted fact that the applicants are State Police Service officers of State of Chattisgarh. The cadre allocation of State Police Service Officers between the States of Madhya Pradesh and Chattisgarh has been done in September,2002 (Annexure-R-2) and, therefore, the grievance against the allocation of IPS officers to the State of Chhattisgarh as on 31.10.2000 is not tenable as the applicants till 2002 were part of the erstwhile State of Madhya Pradesh. Moreover, the applicants are only State Police Service Officers and



not Indian Police Service officers. Section 14 of the Administrative Tribunal Acts stipulates as under:

“14. Jurisdiction, powers and authority of the Central Administrative Tribunal – (1) Save as otherwise expressly provided in this Act, the Central Administrative Tribunal shall exercise, on and from the appointed day, all the jurisdiction, powers and authority exercisable immediately before that day by all courts except the Supreme Court in relation to –

(a) recruitment, and matters concerning recruitment, to any All India Service or to any civil service of the Union or a civil post under the Union or to a post connected with defence or in the defence services, being, in either case, a post filled by a civilian;

(b) all service matters concerning -

- (i) a member of any All-India Service; or
- (ii) a person [not being a member of an All-India Service or a person referred to in clause (c)] appointed to any civil service of the Union or any civil post under the Union or any civil post under the Union ; or
- (iii) a civilian [not being a member of an All-India Service or a person referred to in clause (c)] appointed to any defence services or a post connected with defence,

and pertaining to the service of such member, person or civilian, in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or of any corporation or society owned or controlled by the Government;

(c) all service matters pertaining to service in connection with the affairs of the Union concerning a person appointed to any service or post referred to in sub-clause (ii) or sub-clause (iii) of clause (b), being a person whose services have been placed by a State Government or any local or other authority or any corporation or society or other body, at the disposal of the Central Government for such appointment”.



Since the applicants belong to the State Police Service and they are neither challenging any recruitment to IPS, and matters concerning recruitment to IPS, they cannot approach this Tribunal for redressal of their grievance and the Tribunal has no jurisdiction.

8. Apart from above, we find that the cadre strength of IPS officers in the State of Chattisgarh has been reviewed and the strength has been increased from 59 to 81. The direct recruitment quota has been increased from 41 to 57 and the promotion quota has been raised from 18 to 24. Thus, the promotional prospects of the applicants have improved. On that account also, the grievance of the applicants that two officers of IPS cadre of promotion quota should not have been allocated to State of Chattisgarh has no relevance at this stage as the cadre strength has already undergone a change vide notification dated 30.1.2004 (Annexure-R-3) i.e. before filing this Original Application.

9. The present O.A is, therefore, not maintainable and accordingly dismissed, however, without any order as to costs.


(Madan Mohan)
Judicial Member

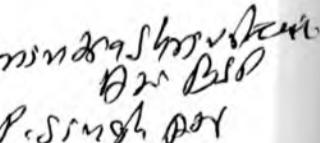

(M.P.Singh)
Vice Chairman

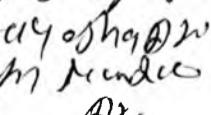
पृठांकन सं ओ/न्या.....जबलपुर, दि.....
 पत्रिलिपि अबो धिात:-

- (1) सचिव, उच्च न्यायालय बार एसोसिएशन, जबलपुर
- (2) आकेदक श्री/मिस्ट्री/डॉ.....के नामस्त्र
- (3) प्रत्यार्थी श्री/मिस्ट्री/डॉ.....के नामस्त्र
- (4) विधायक, लोक सभा/लोकसभा विधायक सभा एवं अन्यथक कार्यालयों के
 नामस्त्र

उप राजदूत


 T.S. Singh
 1/10/05


 M.P. Singh
 1/10/05


 T.S. Singh
 1/10/05