

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

JAIPUR, this the 29th day of November, 2010

ORIGINAL APPLICATION No.242/2006

CORAM:

HON'BLE MR.M.L.CHAUHAN, MEMBER (JUDICIAL)
HON'BLE MR. ANIL KUMAR, MEMBER (ADMINISTRATIVE)

Mukesh Kumar Bhargava,
Statistical Investigator Grade-II
(DR Investigator),
Directorate of Census Operations,
Rajasthan, 06-B, Jhalana Doongari,
Jaipur r/o B-203-A, Rajendra Marg,
Bapu Nagar, Jaipur

.. Applicant

(By Advocate: Shri N.C.Goyal)

Versus

1. Union of India through the Secretary to the Govt. of India, Ministry of Home Affairs, North Block, New Delhi.
2. The Registrar General of India, 2-A, Mansingh Road, New Delhi.
3. Union Public Service Commission, through its Secretary, Dholpur House, Shahjahan Road, New Delhi.

.. Respondents

(By Advocate: Shri Hawa Singh, proxy counsel Shri V.S.Gurjar for resp.No.1 and 2)

ORDER (ORAL)

The grievance of the applicant in this case is regarding Memorandum dated 15.12.2005 (Ann.A/1) whereby seniority of the applicant has been revised and it was held that the applicant shall be entitled for seniority from joining on the post of Investigator i.e. from 2000 and not from the date requisition was sent to the Union Public Service Commission in the year 1997. Further grievance of the applicant is regarding his promotion to the post of Statistical Investigator Grade-I.

2. We have heard the learned counsel for the parties and gone through the material placed on record.

3. From the stand taken by the respondents in the reply affidavit, it is evident that the post of SI Grade-I came into existence after restructuring on 29.9.2000. Recruitment Rules for promotion to the post of SI Grade-I were also notified and the said post was required to be filled in 50% by direct recruitment and 50% by promotion from the persons fulfilling the requisite qualification. From the reply, it is also evident that promotion to the post of SI Grade-I from SI Grade-II was not done in terms of the conditions stipulated in the Recruitment Rules notified on 4.8.2001 but the said promotion was given on all India basis and even some persons who did not possess the requisite qualification were granted promotion to the post. Such departure from Recruitment Rules was made as one time measure on the basis of the approval granted by the competent authority. Since the applicant has not challenged the policy

decision so taken by the respondents and thus granting promotion in violation of the provisions contained in the Recruitment Rules and also persons who do not fulfill the requisite qualification were granted promotion on seniority basis were not made party before this Tribunal, the learned counsel for the applicant on instructions received from his client submits that he may be permitted to withdraw this OA with liberty to file substantive OA for the same cause of action on various grounds including the grounds raised hereinabove.

4. In view of what has been stated above, the applicant is permitted to withdraw this OA at this stage with liberty reserved to the applicant to file substantive OA for the same cause of action on all permissible grounds. It will be permissible for the respondents to raise all permissible objections in the OA to be filed by the applicant.

5. With these observations, the OA is disposed of with no order as to costs.

6. In view of disposal of the OA, no order is required to be passed in MA No.297/2010, which stands disposed of accordingly.

Anil Kumar
(ANIL KUMAR)
Adm. Member

(M.L.CHAUHAN)
(M.L.CHAUHAN)
Judl. Member

R/