

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

O.A.NO.060/00887/2014 Date of order:-April 28, 2015.

Coram: **Hon'ble Mr. Sanjeev Kaushik, Member (J)**
Hon'ble Mr. Uday Kumar Varma, Member (A).

1. Jaswant Singh son of Sardar Basta Singh, working as Assistant Director in the office National Sample Survey Office, Ministry of Statistics & Programme Implementation (MoSPI), Indian Statistical Service (ISS), Regional Office, SCF 14, Phase 10, Mohali.

2. Surjit Singh son of Sh. Guljara Ram, working as Assistant Director in the office of National Sample Survey Office, Ministry of Statistics & Programme Implementation (MoSPI), Indian Statistical Service (ISS), Sub Regional Office, Rajpura Road, Opposite New D.M.C., Civil Line, Ludhiana.

3. Sat Pal son of Sh. Ram Partap, working as Assistant Director in the office of National Sample Survey Office, Ministry of Statistics & Programme Implementation (MSPI), Indian Statistical Service (ISS), Sub Regional Office, Bathinda.

4. Narain Singh son of Sh. Chanan Ram, working as Assistant Director in the office of National Sample Survey Office, Ministry of Statistics & Programme Implementation (MoSPI), Indian Statistical Service (ISS), Sub Regional Office, Session Court Road, Opposite Green View Park, Hoshiarpur.

5. Rajinder Kumar son of Sh. Norata Ram, Ministry of Statistics & Programme Implementation (MoSPI), presently working as Assistant Director in the office of Central Bureau of Health Intelligence (C.B.H.I.), Regional Health Statistical Training Centre, Phase 3B-1, Mohali.

.....Applicants.

(By Advocate :- Mr. D.R.Sharma)

Versus

1. Union of India through the Secretary, Ministry of Statistics & Program Implementation (MoSPI), National Sample Survey Office (Field Operations Divisions), R.K.Puram, New Delhi-110 066.

2. The Director, National Sample Survey Office (Field Operations Division) Regional Office, SCF 1-4, Sector 64, Phase X, SAS Nagar Mohali.

...Respondents

(By Advocate: Mr. Deepak Agnihotri).

ORDER

Hon'ble Mr. Uday Kumar Varma, Member (A):

Five applicants have jointly filed the present Original Application filed under Section 19 of the Administrative Tribunals Act, 1985, praying for the following relief:-

"i) That the impugned order dated 25.9.2014 & 19.9.2014 (Annexure A-1 and A-2) be quashed and set-aside, in the interest of justice;

ii) That the action of respondents in retrospectively applying the stated policy decision not to adhoc promotions be declared illegal and untenable and without any nexus of object to be achieved;

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iii) That the respondents be directed to allow applicants to continue in the junior time scale(JTS) of the Indian Statistical Service (ISS) (Assistant Director) on which they are continuing since 27.08.2013 and many similarly situated and other officers are also continuing as such".

2. Facts as projected by the applicants are that they were initially appointed as Investigator on 19.10.1978, 1.10.1980, 22.10.1978, 27.10.1980 & 20.10.1978 respectively. Thereafter, they were promoted as Assistant Superintendent between 1990 to 1992. Again, all the applicants along with others were promoted as Superintendent/ Superintending Officer (Senior Statistical Officer) with effect from 1.4.2004 in the pay scale of Rs.9300-34800 plus grade pay of Rs.4800/- and they were again promoted as Assistant Director on 27.8.2013 on ad hoc basis in the pay scale of Rs.15600-39100 plus grade pay Rs.5400/-. In pursuance of order dated 27.8.2013, respondent no.1 issued posting orders vide order dated 9.10.2013 of the applicants including other officers who were also promoted. Again respondent no.1 promoted many Statistical Investigatory Gr.I Officers to JTS to ISS in the pay scale of Rs.15600-39100 + grade pay Rs.5400/- vide order dated 18.9.2014 on regular basis with immediate effect. As the applicants are working in pursuance of order dated 27.8.2013, the respondent no.1 vide order dated 19.9.2014 has ordered reversion of the applicants including others who were promoted on adhoc basis, to the substantive post of

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Senior Statistical Officer. In compliance of order dated 19.9.2014, respondent no.2 ordered reversion of the applicants no.1 to 3 to their substantive post of SSO with immediate effect.

3. The applicants have pleaded that the similarly situated employees have also challenged the action of the respondents before the Principal Bench by filing OA No.3499 of 2014 (B.L.Bhatt vs. Union of India).

4. The Tribunal, while issuing notice of motion to the respondents on 1.10.2014 had ordered the respondents to maintain status quo as on that day qua the applicants, and this interim order has been extended from time to time.

5. On notice, the respondents have contested the claim of the applicants by filing written statement wherein they have stated that the applicants have no locus standi as they were promoted on purely adhoc basis. Even the promotion order dated 27.8.2013 clearly stipulates that ad hoc promotions are being made purely as a temporary measure, and can be withdrawn/cancelled any time without assigning reason. They have further stated that the reversion order dated 19.9.2014 was conveyed to applicants no.1 to 3 on 25.9.2014, whereas the Tribunal had ordered for status quo on

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1.10.2014, hence the relief prayed for by the applicants is not maintainable. The respondent no.1 had issued reversion order in consultation with the Ministry of DoPT & Ministry of Law & Justice. They have further stated that in para 2 of order dated 19.9.2014, it has been clearly stipulated therein that " a policy decision has been taken with approval of competent authority that no further ad hoc promotions will be made and that the ad hoc promotions already made will be discontinued immediately". They have thus prayed for dismissal of the OA.

6. The applicants have not filed any rejoinder.

7. We have given our thoughtful consideration to the entire matter and perused the pleadings available on record with the able assistance of the learned counsel for the parties.

8. The main contention of the applicants is that the orders reverting them cannot be implemented with retrospective effect. In that, there has been non-observance of principles of natural justice as they have not been given an opportunity to defend their reversion before the actual date. A perusal of the record makes it abundantly clear that the order itself was very specific. While promoting them on ad hoc basis, the order clearly stipulated "It is also stated that ad-hoc

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promotions are being made purely as a temporary measure and as a stop-gap arrangement and can be withdrawn/cancelled any time without assigning any reason. The promotion will not bestow on the above mentioned officers any claim for regular appointment and ad-hoc service will not be counted for the purpose of seniority in that grade and for eligibility for promotion etc.". The order itself makes it clear that their promotion can be withdrawn/cancelled without assigning any reason. The applicants having accepted their promotion with this conditionality cannot now choose to challenge it. Further, their contention that their reversion has taken place in violation of the policy/ rules is not substantiated because the same has been done in pursuance of the order dated 19.9.2014. This order has been taken in pursuance of the policy decision taken with the approval of the competent authority. The applicants have not shown as to how such a policy decision was bad in law. The applicants have mentioned about the matter pending before the Principal Bench in O.A.No.3499 of 2014 (B.L.Bhatt versus M/O Statistics). The said OA already stand dismissed without any relief.

It may be in order to mention here that the applicants have not claimed that any one junior to them is continuing in ad hoc or regular capacity on the post from where they have been reverted.

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9. In view of the above discussion, we find that interference is not called for in the impugned orders. The OA is accordingly dismissed, leaving the parties to bear their own costs. Interim order granted on 1.10.2014 automatically stands vacated.

(UDAY KUMAR VARMA)
MEMBER (A).

(SANJEEV KAUSHIK)
MEMBER (J)

Dated:- April 28, 2015.

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