

**Central Administrative Tribunal
Principal Bench
New Delhi**

OA No.3740/2015

MA Nos.2150/2016, 3405/2015, 580/2016

This the 14th day of February, 2017

**Hon'ble Mr. Justice Permod Kohli, Chairman
Hon'ble Mr. K. N. Shrivastava, Member (A)**

1. Central Secretariat Official Language
Services Association through its General Secretary
Brij Bhan, Room No.804, B-1 Wing,
8th Floor, Paryavaran Bhawan,
CGO Complex,
New Delhi-110003.
2. S. K. Singh, Joint Director,
Ministry of Steel,
New Delhi-110001.
3. Jagdish Ram Puri, Dy. Director,
Department of Land Resources,
Nirman Bhawan,
New Delhi-110001.
4. Naveen K. Bohra, Asstt. Director,
Ministry of HRD, Shastri Bhawan,
New Delhi-110001.
5. Sudhir Kumar,
Office of DC, MSME,
Nirman Bhawan, New Delhi.
6. Rajeev Mathur, Asstt. Director,
Ministry of Corporate Affairs,
Shastri Bhawan,
New Delhi-110001.

... Applicants

(By Advocate: Mr. S. K. Gupta)

Versus

1. Union of India through its Secretary,
Department of Official Language,
New Delhi City Centre Bhawan,
B Wing, 4th Floor, Jai Singh Road,
New Delhi-110001.
 2. Secretary,
Union Public Service Commission,
Dholpur House, Shahjahan Road,
New Delhi.
 3. Secretary,
Department of Personnel & Training,
Ministry of Personnel, Public Grievances and
Pensions, North Block,
New Delhi. ... Respondents
- (By Advocates: Mr. D. S. Mahendru)

O R D E R

Justice Permod Kohli, Chairman:

This OA has been filed by the Central Secretariat Official Language Service Association through its General Secretary and five individuals, who claim to be members of the applicant No.1 association. The applicants have challenged the advertisement No.12/2015 issued by Union Public Service Commission to the extent posts of Assistant Director at serial number 8 with vacancy No.15091208412 have been notified for selection.

2. Brief facts necessary for purposes of the present OA are that the aforementioned advertisement was issued inviting applications for various posts. This OA is, however, confined to the 50 posts of Assistant Director (Official Language) in Grade-IV of

Central Secretariat Official Language Service, Ministry of Home Affairs, Department of Official Language. Vide this advertisement the 50 posts were advertised under various categories, i.e., UR-25, OBC-13, SC-08 and ST-04. Out of the 50 vacancies one was reserved for physically challenged person.

3. The claim of the applicants is that a cadre review committee was constituted vide Department of Official Language OM No. 15(3)/2005-OL(S) dated 22.09.2010. The terms of reference of the committee were notified vide order dated 02.05.2011. The committee submitted its report, which is at pages 56 to 63 of the OA. The committee in its report dated 02.05.2011 proposed following cadre structure:

S. No.	Name of the existing posts (with Pay Band and Grade Pay)	Existing strength as on 1.1.2010	Strength approved by Ministry of Finance	Proposed strength	Ratio between promotion & DRs/Deputation
(1)	(2)	(3)	(4)	(5)	(6)
1.	Director (PB-4+ 8700 GP)	18 (by deputation 11 + by promotion 07)	12 (by promotion)	18	100% by promotion
2.	Joint Director (PB-3+7600 GP)	20 (by deputation 05 + by promotion 15)	22	36	100% by promotion
3.	Deputy Director (PB-3+6600 GP)	33	58	85	100% by promotion
4.	Asstt. Director (PB-3+5400 GP)	156	180	200	75% by promotion, 25% by DR

5.	(i) Sr. Translator (PB-2+4600 GP)	196	270	318	100% by promotion
	(ii) Jr. Translator (PB-2+4200 GP)	442 Total of Both = 638	270	320	100% by DR
Grand Total		865	812	977	

4. Based upon the aforesaid report, proposal of the Department of Official Language for cadre review of the Service was approved by the Department of Expenditure, vide OM dated 12.09.2011. Following cadre structure with number of posts has been finalized:

S. No.	Post and pay scale	Existing No. of posts	Approved No. of posts
(i)	(ii)	(iii)	(iv)
1.	Director (PB-4+ 8700 GP)	18	18
2.	Joint Director (PB-3+7600 GP)	20	36 (+16)
3.	Deputy Director (PB-3+6600 GP)	33	85 (+52)
4.	Asstt. Director (PB-3+5400 GP)	156	200 (+44)
5.	Sr. Translator (PB-2+4600 GP)	196	318 (+122)
6.	Jr. Translator (PB-2+4200 GP)	442	320 (-122)
	Total	865	977 (+112)

The OM further contains the following stipulation:

“2. The resultant vacancies in all the grades will be filled up by promotion on the basis of seniority-cum-fitness with the approval of Department of Personnel and Training.”

5. The entire case of the applicants is that on the basis of the stipulation contained in para 2 above, all vacancies available as on the date of restructuring were to be filled up through seniority quota,

i.e., by promotion, as a one-time measure. Reference is made to similar system adopted in Central Secretariat Stenographers' Service (CSSS). The applicant association made representations dated 16.04.2013, 16.12.2013, 27.01.2014, 03.03.2014, 31.05.2014, 26.03.2015 and 10.08.2015. It is contended by Mr. S. K. Gupta, learned counsel appearing for the applicants that despite representations, UPSC issued the advertisement No.12/2015 to fill up 50 vacancies by direct recruitment. Receiving no response to their representations, applicants made another representation on 04.09.2015 requesting for filling up the posts by promotion. Mr. Gupta has referred to a communication dated 30.06.2015 from Under Secretary (R.IV), UPSC addressed to Director, Rajbhasha Vibhag, Ministry of Home Affairs, New Delhi referring to the various issues raised by the applicants in respect to the 50 advertised vacancies of Assistant Director (Official Language). A further communication was made by the Department of Official Language to the general secretary of the applicant association on 21.08.2015 stating therein that the points raised in letter dated 10.08.2015 are under consideration.

6. Learned counsel for the applicants vehemently argued that in terms of para 2 of the OM dated 12.09.2011, all available vacancies on the said date were required to be filled up by promotional mode alone, and thus the advertisement No.12/2015 to

fill up the vacancies through direct recruitment is illegal and contrary to law.

7. The claim of the applicants is, however, disputed in the short reply filed by the respondents. It is stated that vacancies were intimated by the Department of Official Language to UPSC which were for direct recruitment quota and were prior to the cadre restructuring order dated 12.09.2011. It is further stated that it is in accordance with the recruitment rules as existing at that time, i.e., 30.10.2006. It is further stated that the Department of Official Language has not intimated the posts created after restructuring of the CSOLS cadre. Respondents have also mentioned that under the recruitment rules of 2006, posts of Assistant Director (Official Language) were to be filled up 50% by promotion and 50% by direct recruitment. It is stated that the vacancies for direct recruitment quota were not filled up since 1997 onwards. A proposal was sent by the Department of Official Language to DOP&T for diversion of the direct recruitment quota vacancies of Assistant Director (Official Language) since 1997 till date to the promotee quota as a one-time measure. The DOP&T, however, rejected the proposal in November, 2014 on the following grounds:

“Deptt. of Official Language has proposed for diversion of the vacancies not filled up by Direct Recruitment since 1997. No reason is being given for non-filling up the direct recruitment vacancies despite

the same sought repeatedly by this Department. The matter has been examined and it is submitted that it may not be practicable to fill up the DR quota vacancies accruing since vacancy year 1997 onwards simultaneously with the persons who have now become eligible as per age limit. Further, in view of revised seniority guidelines dated 4.3.2014, the direct recruits, even recruited in 2014 or 2015, may have to be interpolated with promotees of vacancy year 1997 onwards. This certainly lead to avoidable litigations by adversely affected promotes. At the same time, the diversion of DR vacancies to promote quota without any cogent reasons may also not be proper. It is also stated that the post is still Group 'B' in the existing RRs and the recruitment to the post of Assistant Director in PB 3 GP Rs.5400/- does not seem to be correct. In view of this situation, the issue to fill up/divert the vacancies in DR quota may be decided once the revised CSOLS Rules are notified."

8. Mr. Gupta submits that on the one hand the respondents have notified 50 vacancies for filling up by direct recruitment, whereas in a subsequent misc. Application, MA No.2150/2016, only 27 vacancies are proposed to be filled up by direct recruitment. For that, reference is made to para 5 of the aforesaid MA.

9. This Tribunal, vide order dated 17.03.2016 directed respondent No.2 not to declare the result of the recruitment process pursuant to advertisement No.12/2015 dated 12.09.2015 with regard to item number 8 for 50 posts of Assistant Director (Official Language). The said interim order is being continued. MA No.2150/2016 was filed for vacation of the interim order.

10. The respondents have also mentioned that under the recruitment rules of 2006, quota for promotion and direct recruitment was in the ratio of 50:50. The recruitment rules were thereafter amended and notified on 07.05.2012, and as per the revised rules, the promotional quota has been increased from 50% to 75% and the direct recruitment quota has been reduced from 50% to 25%. After coming into operation of the new rules, UPSC conducted examination for filling up the 50 posts of direct recruitment quota on 20.03.2016. It is further mentioned that for the vacancy year 2015-2016 there are 108 vacancies of Assistant Director and as per revised recruitment rules, 81 posts are to be filled up by promotion and 27 posts by direct recruitment, and accordingly UPSC was requested to forward names of first 27 candidates as per their merit, and if the rules so permit, to retain the names of remaining 23 candidates on a reserve panel, who can be accommodated against future vacancies which may arise in the years 2016-2017 and 2017-2018. Regarding filling up of the vacancies of promotional quota, in para 6 of the MA following details are given:

Vacancy Year	No. of persons granted regular promotion against post of AD(OL)
2008-09	14
2009-10	15
2010-11	27
2011-12	55

2012-13	25
2013-14	4
2014-15	8
Total	148

It is thus, stated that total 148 persons have been promoted by the respondents during the aforementioned period. Copies of promotion orders have also been placed on record as Annexure R-2 with the MA. The respondents have further stated that the Chief Commissioner for Persons with Disabilities vide his order dated 03.06.2016 has directed the Department of Official Language to inform the UPSC to declare result in respect of 48 vacancies instead of 50 and to issue corrigendum and re-advertise 2 vacancies for persons with disabilities as per para 25 of the DOP&T OM dated 29.12.2005. Regarding the selection in question, it is stated that for the vacancy year 2015-16, out of total 27 candidates to be selected through UPSC, only 26 have been selected, and all the eligible candidates under the promotion quota have already been promoted for the vacancy year 2014-15. It is further stated that 81 more eligible Senior Translators would be promoted for the vacancy year 2015-16.

11. We have heard the learned counsel for parties. Following admitted facts emerge:

Under the recruitment rules of 2006, the quota for promotion and direct recruitment was 50:50. The department initiated process

for cadre restructuring which was carried out pursuant to the report of the cadre review committee, and for the post of Assistant Director (OL), as against 156 vacancies earlier existing the number was enhanced to 200, as is evident from office memorandum dated 12.09.2011 reproduced hereinabove. The advertisement was issued after the cadre restructuring. Consequent upon the restructuring, even the recruitment rules were amended vide notification dated 07.05.2012. The promotion quota was increased to 75% as against the existing 50%, whereas the direct recruitment quota was reduced from 50% to 25%.

12. Now coming to the claim of the applicants, even if 25% of the total cadre strength, which was 200 after restructuring of the cadre, is considered for direct recruitment, it comes to 50 posts. The advertisement was issued on 12.09.2015 to fill up 50 posts, well within the quota of direct recruitment, as admittedly from 1997 onwards no direct recruitment has taken place. The respondents in their MA-2150/2016 have, however, specifically averred that for the vacancy year 2015-16, 108 vacancies were available, and thus keeping in view the 25% quota for direct recruitment, UPSC was asked to recommend only 27 candidates, although 50 posts were earlier referred and advertised. These 27 posts are 25% of the total 108 vacancies. In the counter affidavit, the respondents had earlier taken

the stand that 50 vacancies advertised were prior to restructuring on account of non-recruitment against the direct recruitment quota since 1997. Even 50 vacancies are within 25% of the total cadre strength. The claim of the applicants is totally based upon para 2 of office memorandum dated 12.09.2011, wherein a stipulation has been made that resultant vacancies in all grades will be filled up by promotion on the basis of seniority-cum-fitness with the approval of DOP&T. Mr. Gupta argued that the matter was not referred to DOP&T. This contention is contrary to the specific averments made in para 7 of the short counter-affidavit wherein it is stated that in November, 2014 proposal was sent to DOP&T for diversion of the direct recruitment quota vacancies available since 1997 to be filled up by promotion, and the proposal was rejected. Para 2 of the OM dated 12.09.2011 could only be implemented if the direct recruitment quota vacancies are diverted to the promotional quota. That having not been allowed, the applicants cannot have any claim against the direct recruitment quota. We find that 50 vacancies pertain to the period prior to amendment of the recruitment rules. The quota of direct recruitment comes to double the present quota, and even after the amendment of the recruitment rules the quota of direct recruitment comes to 50, i.e., 25% of the cadre strength, and in any case not less than 27 vacancies available for the vacancy year 2015-16. Admittedly, no recruitment had taken place against direct recruitment quota since

1997. The loss is of the persons who are entitled to be considered against direct recruitment quota. We fail to understand the claim of the applicants against the direct recruitment quota. The stipulation in para 2 of the office memorandum dated 12.09.2011 does not confer any right upon the applicants, that too against the prescribed quota under the recruitment rules.

13. This OA is totally baseless and deserves to be dismissed. Ordered accordingly. Interim order shall stand vacated. There shall be no order as to costs.

14. All the miscellaneous applications also stand disposed of.

(K. N. Shrivastava)
Member (A)

(Justice Permod Kohli)
Chairman

/as/