

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.4543/2014

Order Reserved on 22.01.2016
Order Pronounced on: 26.04.2016

Hon'ble Mr. Sudhir Kumar, Member (A)
Hon'ble Mr. Raj Vir Sharma, Member (J)

1. Arvind Saroj
Son of Mr. Birbal Saroj,
Resident of House No.-37, Near Old J.N.U. Campus,
Bersarai, New Delhi.
2. Amit Kumar Singh
Son of Mr. Hari Prasad Singh,
Resident of Vill. Malaon, Post Sakhara,
District Rohtas, Bihar.
3. Amit Kumar Singh
Son of Late Mr. Balwant Singh
Resident of H.No.-101, Rajya Karamchari Colony,
Ramghat Road, Aligarh, Uttar Pradesh.
4. Animesh Garg
Son of Mr. Ravinder Kumar Garg,
Resident of #186-A, Sewak Colony,
Patiala.
5. Anjeet Kumar
Son of Mr. Shiv Narayan Sah
Resident of H.No. -92B/5, Room No.-01,
Munirka, New Delhi-110067.
6. Anoop Kumar Chaudhary
Son of Mr. Ram Raj Chaudhary,
Resident of Room No.-310, Roy Mansion Society,
Vakola, Santacruz East, Mumbai.
7. Arun Kumar Yadav
Son of Mr. Suresh Singh Yadav,
Resident of 53 Room-8, Mahipal pur,
New Delhi -110037.
8. Ashish Kumar
Son of Mr. Bihari Lal,
Resident of VI- Sahijan Khurd, P.O. Sahijan Kalan,

Robertsganj Distt., Sonebhadra
Uttar Pradesh.

9. Amit Awasthi
Son of Mr. U. S. Awasthi,
Resident of 203 B, Arjun Nagar, Safdarjang Enclave,
New Delhi.
10. Avinash Varun
Son of Mr. Harish Varun
Resident of A-133, Indra Vihar, Arihant Road,
Bhopal.
11. Barun Chowdhury
Son of Late Mr. Baidyanath Chowdhury,
Resident of Milan Pally, PO-Hridaypur,
North 24 Parganas, West Bengal- 700127.
12. Chetal Singh
Son of Mr. Manbir Singh,
Resident of L-60, Pratap Vihar, Sector-12,
Ghaziabad, Uttar Pradesh.
13. Deepak Kumar
Son of Mr. Madan Pal Singh
Resident of H.No.-13, Ber Sarai,
Opp. Old J.N.U. Campus,
New Delhi.
14. Gaurav Shahi
Son of Mr. Man Mardan Shahi,
Resident of Type V/I, CAD, Airport Colony,
Patna, Bihar.
15. Gourav Bhardwaj
Son of Mr. Pramod Bhardwaj,
Resident of A-2/50, Brijpuri,
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16. Govind Singh Meena
Son of Mr. Jagmal singh Meena,
Resident of Near Santoshi Mata Temple,
Ward No.-24, Neem ka Thana, Sikar,
Rajasthan.
17. Gulipalli Sasidhar
Son of Mr. G. Krishna,

Resident of Kollam Village, Gantiyada M.D,
Vizianagaram Distt., Andhra Pradesh State.

18. Harsh Raj Gupta
Son of Mr. Rajendra Prasad Shah,
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12th Cross, 1st main, Domlur,
Bangalore – 560071.
19. Himanshu Chaudhary
Son of Mr. Murari Lal,
Resident of 9/165, WREB Staff Qarters,
Andheri West, Mumbai.
20. Jeetendra Kumar Mishra
Son of Mr. Ram Ujagar Mishra,
Resident of 664, Chirag Delhi,
New Delhi – 110017.
21. Jitendra Kumar Jangir
Son of Mr. Devdatt Jangir,
Resident of 52/74, Gali No.-24, Nai Basti,
Anand Parbat, New Delhi-110005.
22. Keshav Kishor Jha
Son of Mr. Tirth Nath Jha
Resident of Phool Chand, F-103,
R.No.-7, katwaria Sarai,
New Delhi.
23. Komal Prasad
Son of Mr. Ramprakash,
Resident of A-16, Chauhan Bhawan,
Gali No.-04, Om Nagar, Mohan Nagar,
Ghaziabad.
24. Kumar Gaurav
Son of Mr. Lakshman Prasad Gupta,
Resident of D-30, Central Govt. Officers Hostel,
Domlur, Bangalore – 560071.
25. Mahendra Babu Manapati
Son of Mr. M. Marenn
Resident of H.No.-26/614-A, Royal Compound,
Nandyal, Kurnool(D.T),
Andra Pradesh-518502.

26. Manas Ranjan Nishankray
Son of Mr. Sadhu Charan Nishankray,
Resident of C/o-Gopal Dutta Banik,
2.5 No- Airport Gate, 3 Motilal Colony,
Kolkata -700081.
27. Maneesh Kumar Sharma
Son of Mr. Suresh Chand Sharma
Resident of RZ-935B, Gali No.- 14/3,
Sadh Nagar, Palam, New Delhi-110045.
28. Manish Kumar
Son of Mr. Subilal Sahu,
Resident of RZ-I-43, West Sagarpur,
New Delhi.
29. Mayank Rawat
Son of Mr. Madan Sopal Rawat,
Resident of 21/625, DDA Flat Madangir,
Ambedkar Nagar, New Delhi.
30. MD. Aslam Nawaz
Son of MD. Islam
Resident of H.No. F-19, Room No.-9,
Ber Sarai, Opp. Old J.N.U. Campus,
New Delhi – 110016.
31. Md. Azharuddin
Son of MR. Md. Maniruddin,
Resident of C/o- Md Badruddin, Flat No-11C,
Tower6A, Ruchi Active Acres, 54/10,
Debandra Chandra Dey Road, Tangra, Dhapa Market,
Kolkata – 15.
32. Mohit Jain
Son of Mr.Virendra Kumar Jain,
Resident of B-307, Sohini Apartments,
Vakola Dutt Mandir, Santacruz East Mumbai.
33. Naveen Kumar
Son of Mr. Mahendra Prasad Singh,
Resident of Sitaram Bhawan 55, Room No.-11,
Maidan Gadhi, New Delhi-110068.
34. Nusrat Khan
Son of Mr. Anwar Khan,
Resident of 366, Talpura Jhansi,
Uttar Pradesh.

35. Om Prakash Meena
Son of Mr. Chaturbhuj Meena,
Resident of Flat No.-9294, DDA Flat (L.I.G.),
B-9 Vasant Kunj, New Delhi.
36. Pankaj Kumar
Son of Mr. Ramawatar Choudhary,
Resident of East of Navratanpur Mandir.
South Postal Park, Patna -1.
37. Pankaj Kumar Sharma
Son of Sh, Harish Kumar Sharma,
Resident of Flat No.-50C, Pocket A3,
Kalkaji Extn. DDA Flats,
Delhi.
38. Pappu Ray
Son of Mr. Bhuneshwar Ray,
Resident of A-139, Mahavir Enclave – 2,
Near Dwarka Puri Bus Stand,
New Delhi – 110059.
39. Pardeep Kumar
Son of Mr. Om Parkash,
Resident of Room No.-310, Roy Mansion Society,
Santacruz East, Mumbai.
40. Parikshit Deshpande
Son of Mr. Sunil Deshpande
Resident of 203, H-15, Abhiman C.H.S. Pratiksha nagar,
Sion(E), Mumbai-400022.
41. Pawan Kumar
Son of Mr. Kapil Pandit,
Resident of Room No.-310,
Roy Mansion Society, Vakola, Santacruz,
East Mumbai.
42. Pawan Kumar
Son of Mr. Ramashish Prasad,
Resident of Vill. Tandapur, Arhit,
Jehanabad, Bihar.
43. Prabhakar Anand
Son of Mr. Prasadi Mandal,
Resident of B-505, Suraj Heights,
Goregaon East, Mumbai.

44. Pradeep kumar Pandey
Son of Mr. Subhash Chandra Pandey
Resident of H.No.-837-P, New Colony,
Rajendra Nagar East Lachchhipur Gorakhnath,
Gorakhpur, Uttar Pradesh-273015.
45. Prakash Jha
Son of Mr. Bhavnath Jha,
Resident of Road No.- 15G, Anand Niketan Co-operative,
Rajiv Nagar, Patna, Bihar.
46. Prashant Kumar
Son of Mr. Nirmal Prasad Yadav,
Resident of O-2/4, New Airport Colony,
Vile Parle East, Mumbai.
47. Prem Prakash
Son of Mr. Ranjeet Ranjan Upadhyay,
Resident of F-4/11, 2nd Floor, Malviya Nagar,
New Delhi – 110017.
48. Priya Meena
Daughter of Mr. B.L. Meena,
Resident of E-4/07, Vikram Nagar,
DOS housing Colony, Bopal Road,
Ahmedabad, Gujarat.
49. Puneet Chachra
Son of Mr. Ramesh Kumar Chachra,
Resident of B-307, Sohini Apartment,
Vakola, Dutt Mandir, Santa Cruz(E),
Mumbai-400029.
50. Puneet Goyal
Son of Mr.Hansraj Goyal,
Resident of H.No.-120, Ward No.-7, Jain Gali,
Baniyawara, Ballabgarh,
Haryana – 121004.
51. Rajeev Ranjan Pande
Son of Late Mr. S.K.Pande
Resident of 76-B, Kishangarh, Vasant Kunj,
New Delhi.

52. Rajnish Pandey,
Son of Mr. Pyare Lal Pandey,
Resident of F-G/11 2nd Floor, Near golchakkar,
Malviya Nagar, New Delhi – 110017.
53. Rajesh Mishra
Son of Mr. Ganga Prasad Mishra,
Resident of D-11, First Floor, Central Govt. Officers Qtrs.,
12th Cross, 1st main, Domlur,
Banglore – 560071.
54. Ramdinker Pandey
Son of Manik Lal Pandey,
Resident of 102 B Shahnsha Garden,
Raisen Road, Bhopal,
Madhay Pardesh.
55. Ravi Kumar
Son of Mr. Mewa Lal Gupta,
Resident of H.No.-C3/1, New Airport Colony,
Vile Parle (East), Mumbai – 400099.
56. Ravi kumar
Son of Mr. Ram Krishna Yadav,
Resident of Ward-34, Jawahar Nagar,
Begusarai, Bihar-851101.
57. Ravi Prakash
Son of Mr. Shyam Dev Singh,
Resident of H.No.- DS-27, Delhi-Rohtak Road,
Surya Roshni Ltd., Bahadurgarh, Haryana.
58. Ravi Ranjan Prasad
Son of Mr. Dwrka Prasad,
Resident of 289/8 Jia Sarai, Delhi.
59. Ravindra Kumar
Son of Mr. Uma Shankar Bhagat,
Resident of Flat No.- 31, Block A2,
Kendriya Vihar, Near Haldiram, VIP Road,
Kolkata-700052.
60. Sajal
Son of Mr. Ranvir,
Resident of 1464, Sector – 15,
Sonipat -131001, Haryana.

61. Sandeep Verma
Son of Mr. RamChandra Verma,
Resident of Verma Machinery Store, Karbala Kashimpur,
Jalapur, Ambedkar Nagar – 224149.
62. Santosh Kumar
Son of Mr. M.P. Keshri,
A6/85, kendriya Vihar Housing Society,
VIP Road, Kolkata -700052.
63. Saurav Pal
Son of Mr.Jagdish Prasad Pal,
Resident of H.No.- 1690, Laxmi Bai Nagar,
New Delhi-110023.
64. Shilpa Kumari
Daughter of Mr. U.N. Lal Karn,
Resident of Abhidit Sadan, Chitragupta Nagar,
Kadirabad Darbhanga, Bihar.
65. Sunil kumar
Son of Mr. Indradeo Saw,
Resident of B3/47, Kendriya Vihar, VIP Road,
Kolkata-52.
66. Sushil Kumar Malik
Son of Mr. Sushil Kumar Malik,
Resident of House No.-387, Rajender Nagar,
Rohtak, Haryana.
67. Swapnil Sharma
Son of Mr. Brij Bhushan Sharma,
Resident of O2/4, New Airport Colony,
Vile parle(East).
68. Tahir Abdullah
Son of Mr. Abdul Rashid,
Resident of O-2/4 New Airport Colony,
Vile Parle East Mumbai.
69. Tarkeshwar Jha
Son of Mr. Vedanand Jha,
Resident of Flat no.-39, Block- A-3,
Kendriya Vihar, VIP Road,
Kolkata – 700052.

70. Tilak Raj
Son of Mr. Ram Lal
Resident of H.No.- 37, Near Old J.N.U. Campus,
Ber Sarai, New Delhi.
71. Tushar kanti Roy
Son of Mr. Shyamal Kumar Roy,
Resident of 02/4, New Airport Colony, Vile Parle (E),
Mumbai – 400099.
72. Udai Pratap Singh
Son of Late Mr. R.B. Singh,
Resident of Flat No.-196, Pkt-I,
Sector-19, Dwarka, New Delhi-110075.
73. Varun Pratap Singh
Son of Mr. Bhupendra Vir Singh,
Resident of 814, B, Vishnupuram Basharatpur,
Gorakhpur, Uttar Pradesh.
74. Vikash Dayma
Son of Mr. Satya Narayan Dayma,
Resident of Near Old Court, Shai Bazar,
Fatehpur Sikar, Rajasthan.
75. Vinod Kumar
Son of Mr. Uma Shankar,
Resident of C-3/1, New Airport Colony,
Vile Parle East, Mumbai.
76. Vishv Mitra
Son of Mr. Sipahi Lal,
Resident of F-1, First Floor, Ward-8,
Mehrauli, Prop. No. – 1052,
New Delhi – 110030.
77. Rajeev Suman,
Son of Mr. Ajay Kumar Thakur,
Resident of F-270,
Lado Sarai, New Delhi.
78. Shashank Singh,
Son of Mr. M.P. Singh,
Resident of Durgapuri Extension,
Shahdra, Delhi.
79. Suresh Kumar Dogra,
Son of Mr. Gurbachan Lal,

Resident of Flat No.302,
Amrit Kunj Apartments,
Sadh Nagar, Palam Colony,
New Delhi.

80. Surendra Chaudhary,
Son of Mr. Rameshwar Chaudhary,
Resident of Airport Colony, AH-9,
LHBI Airport, Guwahati - 15.
81. Santosh Kumar Singh,
Son of Mr. Uma Shankar Singh,
Resident of 436, First Floor,
Metro View Apartments,
Sector 13-B, Phase - 2,
Dwarka, New Delhi.
82. Sugali Lal Kiran Naik
Son of Mr. S.N.K. Naik
Resident of D-10, Central Govt. Officers
Quarters, Domlur, Bangaluru-560071.

...Applicants

(By Advocate: Mrs. Geeta Luthra, Sr. Counsel with
Mr. Nishant Datta)

VERSUS

1. Directorate General of Civil Aviation,
Through the Joint Director General (Administration),
Opposite Safdarjung Airport,
New Delhi.
2. Ministry of Civil Aviation,
Through the Secretary,
Rajeev Gandhi Bhawan,
Safdarjung Airport,
New Delhi - 110003.
3. Union Public Service Commission,
Through its Chairman
Dholpur House, Shah Jahan Road,
New Delhi.

...Respondents

(By Advocate: Rajeev Kumar)

ORDER**Per Sudhir Kumar, Member (A):**

The 82 applicants of this OA are before us challenging the validity of the Recruitment Rules (RRs, in short) governing the appointment of Assistant Directors of Airworthiness (earlier known as Senior Airworthiness Officers), which were proposed to be appointed by Respondent No.1 at the time of filing of the OA on 17.12.2014. While admitting the case on 23.12.2014, the Bench had listed the case for hearing on the point of Interim Relief, and vide order dated 06.01.2015, it was ordered that selection made, if any, shall be subject to the outcome of the present OA.

2. The applicants have alleged that Respondents No. 1 & 2 have failed to adhere to recommendations of the VI Central Pay Commission (VI CPC, in short), and that the Advertisement No.18/2014 published by Respondent No.3 - UPSC for the appointment of 19 Assistant Directors of Airworthiness in the Department of Respondent No.1 through direct recruitment, had been published without considering the representations made by the applicants, and contrary to the recommendations of the VI CPC.

3. In fact, the applicants have challenged the vires of the RRs dealing with the recruitment to the posts of Assistant Director of Airworthiness,

since they apprehended their being overlooked for promotions on seniority-cum-merit basis if such direct recruitments take place.

4. The Respondent No.1 Directorate General of Civil Aviation (DGCA, in short) is a Regulatory Body, with the hierarchy of the initial or entry level posts being Airworthiness Officers, thereafter their promotional posts being Assistant Directors of Airworthiness (previously called Senior Airworthiness Officers), with their promotional posts being Deputy Directors of Airworthiness, and so on and so forth. The applicants have submitted that the present sanctioned strength of the grade of Airworthiness Officers is 130, that of the grade of Assistant Directors of Airworthiness is 74, and the sanctioned strength of the grade of Deputy Directors of Airworthiness is 38.

5. It has been further submitted that the hierarchy and the structure of the department has been so neglected and overlooked, that even if there is no lateral or direct entry, as proposed presently, and under challenge in the present O.A., at the level of Assistant Directors of Airworthiness (previously called Senior Airworthiness Officers), on completion of five years of their service, only 74 persons amongst the 82 applicants of this O.A. can become Assistant Directors of Airworthiness, provided all the posts of Assistant Directors of Airworthiness are found to be vacant. Similarly, after another five years, only 38 persons among them will become Deputy Directors of Airworthiness, provided all 38

posts at that level are vacant. It was, therefore, submitted that it is clear from this that some of the Airworthiness Officers amongst the applicants may have to wait for a period of at least 15 to 20 years even for a single promotion, even in the case of no lateral entry or direct recruitment taking place at any intermediate level. Their grievance is that in case direct recruitment is permitted to continue as per the impugned advertisement, the situation will become even worse, thereby leading to an almost blockage of the promotional prospects of most Airworthiness Officers, who are the applicants in this OA.

6. It was further submitted that Respondent No.1 Regulatory Body functions under the Respondent No.2-Ministry of the Govt. of India which, as a matter of policy, has already started avoiding direct recruitment or lateral entry into similar regulatory bodies. The applicants had cited the case of the Telecom Regulatory Authority of India (TRAI, in short), which is an independent Regulator in the field of the Telecommunication, formed in 1997, where no lateral entry is allowed, and all the higher grade posts are filled up only by means of deputations or promotions. It was submitted that Respondent No.1 DGCA also being a Regulatory Body should also follow the same course.

7. The applicants admitted that the RRs as formulated and notified in 1984 were amended in 1990, and in both of them, the manner of recruitment for the said promotional posts of Senior Airworthiness

Officers or Assistant Directors of Airworthiness were to be 25% by direct recruitment and 75% by promotion. Since no changes have been made to the RRs over the years thereafter since 1990, it was alleged that the promotional prospects of Airworthiness Officers were affected so much adversely that the batch of Airworthiness Officers appointed in the year 1991 got promoted only once to the post of Senior Airworthiness Officers, in the year 2012, i.e., nearly 21 years later, and that such faulty recruitment and promotional policy has caused undue embarrassment, hardship and frustration to the entire cadre of Airworthiness Officers.

8. In 2009, representations were submitted by the Association of Airworthiness Officers, following which few meetings took place in 2010 between the then incumbent Respondent No.1 and the office bearers of the Association concerned, and the Association had pleaded for doing away with direct recruitment to the posts of Assistant Directors of Airworthiness (Senior Airworthiness Officers). However, the matter could not be finalized at that time by Respondent No.1.

9. The present applicants, who were all appointed as Airworthiness Officers with Respondent No.1 during 2013, started pointing out the lack of their promotional avenues through their representation made soon thereafter, and praying for avoiding lateral entry into the organization which would affect their promotional prospects. The said Association then submitted another representation dated 23.02.2014 to Respondent

No.3 UPSC, again pleading for stoppage of direct recruitment of Senior Airworthiness Officers, but did not receive any reply. The Association represented once again on 11.11.2014, but still did not receive any reply from Respondents No.1 & 2. The applicants have, therefore, termed the impugned Advertisement No. 18/2014 to be not only against the recommendations of the VI CPC, but they have also relied upon the information obtained that the UPSC had observed that Respondent No.1 has not amended RRs on a regular basis every five years, as required under the norms of DoP&T.

10. Therefore, the applicants have filed this OA taking the following grounds:-

- a) That the existing RRs, which provide for direct recruitment to the extent of 25% of the posts of Assistant Directors of Airworthiness, are outdated, archaic, arbitrary and unreasonable, particularly in the backdrop of the recommendations at Para 7.3.16 of the VI CPC, which had suggested that the issue of direct recruitment in the higher grades affects the promotional prospects of the junior officers, and needs to be avoided, but in the case of functional necessity, such direct recruitment should be made by lateral entry on contractual basis, so that the promotional prospects of the officers recruited in the lowest Group- A pay scales are not affected;

- b) That the present RRs providing for lateral entry to the higher level posts are responsible for unreasonably causing blockage of the promotional prospects of the applicants since such direct recruitment will certainly lead to blockage of their career prospects, leading to a situation worse than the last batch of Airworthiness Officers;
- c) That the Govt. of India has as a policy started avoiding direct recruitment or lateral entry into similar regulatory bodies with the example of TRAI having been cited;
- d) That the failure of Respondents No. 1 & 2 to adhere to the recommendations of the VI CPC in amending the RRs governing the posts of Assistant Directors of Airworthiness amounts to violation of the rights of the 82 applicants under Articles 14 & 16;
- e) That though the applicants had been recruited by Respondent No.3 UPSC through the centralized All India Written Examination, followed by interview, but the qualifications prescribed for promotional posts of Assistant Directors of Airworthiness had remained unchanged since 1984, and even a person possessing lower qualifications than them can be recruited to this post, even though it is the promotional post of the applicants;

- f) That Respondents No.1 & 2 have already engaged some Assistant Directors of Airworthiness on contract basis, as had been suggested by the VI CPC;
- g) That the Respondents No. 1 & 2 have ignored the mandatory instructions issued by the DoP&T;
- h) That RRs should be necessarily reviewed once in 5 years, which direction is binding upon the respondents;
- i) That the impugned Advertisement for direct recruitment against the promotional posts had been published by the respondents without taking into consideration the representations submitted by the applicants, seeking change in RRs, and avoidance of direct recruitment for lateral entry.

11. In the result the applicants had sought the following reliefs:-

“(I) Hold that the Recruitment Rules, presently applicable and providing for lateral entry through direct recruitment for the post of Assistant Director of Airworthiness, are outdated, arbitrary, unreasonable and archaic, and quash the said Recruitment Rules to such extent;

(II) direct Respondents No.1 and 2 to formulate new and contemporary Recruitment Rules for appointment of Airworthiness officers and Assistant Directors of Airworthiness taking into consideration the representations made by the Applicants;

(III) quash Advertisement No.18/2014 dated 08.11.2014 passed by Respondent No.3 for appointment through direct recruitment of 19 Assistant Directors of Airworthiness in Respondents Nos.1 and 2;

(IV) pass any such or further orders as may be deemed fit and proper in the facts and circumstances of the present case.”

12. The respondents filed their counter reply on 05.10.2015. It was submitted by them that the UPSC has prescribed the ratio for direct recruitment for promotional posts to the promotions from the feeder grade posts to be 1:3, where-ever the recruitment is by way of selection. It was submitted that accordingly for the sake of promotion of 130 posts of Airworthiness Officer, 47 posts of Assistant Directors of Airworthiness should have been included in the promotional quota, whereas actually they have earmarked even more than that, 62 posts of Assistant Directors of Airworthiness for promotion quota, as per the prevalent RRs. Similarly, it was explained that for promotions from 75 posts of Assistant Directors of Airworthiness, only 25 posts of Deputy Directors of Airworthiness should have been in the promotion quota, as per the ratio prescribed by the UPSC, while actually 40 posts of Deputy Directors of Airworthiness have been earmarked for promotional quota, as per the prevalent RRs. It was submitted that posts have to be filled up as per the eligibility conditions prescribed in the notified RRs in force at the time of occurrence of vacancies, unless the RRs are amended retrospectively.

13. It was further submitted that since the existing RRs are perfectly in order, and more than the ratio prescribed for promotion quota is

available, as explained above, the applicants before this Tribunal have no *locus standi*, and the OA is, therefore, not maintainable.

14. It was further explained that out of the total sanctioned strength of 75 posts of Assistant Directors of Airworthiness, 18 posts are already filled up on regular basis, and 57 posts are vacant, out of which vacant posts only 1/3rd, i.e., 19 posts, which fall under the Direct Recruitment Quota under the existing RRs are being filled up by the prescribed mode of direct recruitment. It was submitted that for the remaining 38 vacant posts of Assistant Directors of Airworthiness, the Respondent No.1 has not opted for direct recruitment method, so as to not to impede the career progression of the officers in feeder grade, which include the applicants of this O.A. It was further submitted that the revision of the RRs is under process in Respondent No.1 DGCA, Organization, and, after due process of consultation, the new RRs will be notified, only after all the requisite procedural requirements are fulfilled. It was, therefore, prayed that the submissions made and the grounds cited by the applicants are not tenable, and that they have failed to make out any case in their favour, and the OA is liable to be dismissed, as being devoid of any merit.

15. The applicants filed a rejoinder on 21.12.2015 more or less reiterating their contentions as already made out in their OA. It was denied that any number of posts at the level of Assistant Director of

Airworthiness necessarily required to be filled up by direct recruitment. The continuation of 25% direct recruitment quota first prescribed in 1984 even when the Rules were revised in between in 1990, was again assailed, and it was submitted that the respondents have not offered any explanation for not adhering to the prescription for amending the RRs periodically. It was further submitted that since the respondents have already filled some vacancies for the posts of Assistant Directors of Airworthiness by making contractual appointments, it was, therefore, again prayed that the OA be allowed.

16. Heard. The matter was argued very vehemently by the learned counsel for both the sides. Learned counsel for the applicants had pointed out the Notification dated 23.06.2014 containing 97 names, through which the applicants had been appointed as Airworthiness Officers. Annexure A-2 related to the documents from TRAI, and Annexure A-3 had enclosed the RRs dated 16.06.1969, which were amended first through Notification dated 25.02.1980 (pages 98 to 106), and then amendments were brought about through GSR 981 dated 21.08.1984 (page-108 of the paper book of the OA). The re-designation of the posts of Senior Airworthiness Officers as Assistant Directors of Airworthiness, and all the levels of Airworthiness Officers as Deputy Directors of Airworthiness etc., brought about through the Gazette Notification dated 04.05.2011, was brought on record through pages 109 & 110 of the paper-book. Annexure A-4 was a representation given by

one of the applicants, and at Annexure A-5, a portion of the Report of the VI CPC was produced. At Annexures A-6 & A-7 the representations dated 18.02.2014 & 23.02.2014 given by the Association against such direct recruitments through UPSC for lateral entry of Assistant Directors of Airworthiness were brought on record, and through Annexures A-8 & A-9 certain information sought for under the Right to Information Act, 2005, and its reply had been brought on record. At Annexure A-10, the representation dated 11.11.2014 given by the Association against the direct recruitments was brought on record, and at Annexure A-11, the UPSC Advertisement had been reproduced.

17. At Annexure A-12 a copy of the DoP&T OM dated 25.03.2014 directing all the Departments to revise their RRs once in every five years was brought on record. The respondents had not brought any documents on record through their counter reply, but the applicants had brought on record the entire Circular dated 24.08.2015, in regard to contractual appointments against the posts of Assistant Directors of Airworthiness.

18. We have considered the facts of the case and given our anxious consideration to the same, and the points of law involved. Learned counsel for the applicants had relied upon the order in the case of **Rishipal Rana & Ors. vs. MCD** - OA No.2463/2009 passed by this Tribunal on 28.01.2010, wherein directions had been issued to the

respondents to amend the RRs as per the Govt. of India's instructions, as suggested by the VI CPC. The learned counsel for the applicants had also relied upon the order passed on 24.04.2014 in OA No.1330/2014 **All India EDP Officers (Group-B) Association, through its General Secretary, Pardeep Kumar Kapil and Others vs. Union of India & Ors. through CSI & Secretary to the Government of India, Ministry of Statistics & Programme Implementation and Others**, wherein this Tribunal had, without going into the merits of the case, at the admission stage itself, directed the respondents to consider the case of the applicants regarding the existing EDP cadre structure, pay scales etc., and to take a final decision. Similar directions were also sought by the learned counsel for the applicants herein.

19. The DoP&T directions dated 25.03.2014 issued through Annexure A-12 are certainly binding, and the respondents ought to have undertaken the process of periodic revision of the RRs. But this was not done. However, it is trite law that the vacancies existing at any point of time should be filled up according to the RRs as prevailing at the time when the vacancies had occurred. It is also trite law that the applicants having been appointed in a large batch of 97 persons through Annexure A-1 dated 23.06.2014, they cannot now claim that all of them need and deserve to be promoted simultaneously to the promotional cadre of Assistant Director of Airworthiness, without any consideration of their relative performances, *inter-se* seniority, and merit. The respondents

have in their counter reply already pointed out that against the 130 posts of Airworthiness Officers, they have 75 posts of Assistant Directors of Airworthiness, and 40 posts of Deputy Directors of Airworthiness, which appears to be quite a reasonable pyramidal structure of administrative hierarchy. Out of these 75 posts also, the respondents have already kept 56 posts of Assistant Directors of Airworthiness earmarked for the promotion quota, as per the RRs in force, and have only advertised for the remaining 19 posts to be filled up through direct recruitment by way of the impugned advertisement.

20. The applicants cannot be heard to plead that this Tribunal should issue a direction or mandamus that all the 75 posts of Assistant Directors of Airworthiness should necessarily be filled up only by way of promotion from amongst the applicants, who are from within the 97 persons recruited on 23.06.2014 (Annexure A-1) and others. When the RRs prescribe for a particular quota for the purpose of filling up the promotional post, no deviation from that can or should be ordered by this Tribunal. It has been held in the case of **Bishan Sarup Gupta vs. Union of India & Ors. AIR 1972 SC 2627; (1973) 3 SCC 1**, by the Hon'ble Apex Court that so long as the quotas remain, one group cannot claim that quota of the other group either on the ground that the quotas are not regularly filled up, or on the ground that there has been a number in excess of the relevant quota, and the same should be

necessarily absorbed, depriving the other group of their quota as per the RRs.

21. In the case of **V.B. Badami etc. vs. State of Mysore and Ors. AIR 1980 SC 1561; (1976) 2 SCC 901**, it was held that when the quotas have been fixed by the RRs having statutory force, for promotion of employees recruited from different sources, the quotas so fixed are unalterable, and according to the exigency of the situation, they can only be altered by fresh determination of the quotas, by amendment of the appropriate RRs, and not otherwise.

22. The applicants cannot be allowed to plead that there should be absolutely no direct recruitment, even for the 25% quota fixed for direct recruitments, as held by the Hon'ble Apex Court in **Lila Dhar vs. State of Rajasthan (1981) 4 SCC 159; AIR 1981 SC 1777**, since the object of any process of selection for entry into a public service is to secure the best and the most suitable person for the job, avoiding patronage and favouritism. It was held that selection based on merit, tested impartially and objectively, is the essential foundation of any useful and efficient public service. It was further held that open competitive examination has come to be accepted almost universally as the gateway to public services.

23. Further, in **Nilangshu Bhusan Basu vs. Deb K. Sinha and Others (2001) 8 SCC 119**, it has been held by the Hon'ble Apex Court that it is

an administrative function of the appointing/appropriate authority to take a decision as to which method should be adopted for recruitment for any particular posts, which may depend on various factors relevant for the purpose, e.g. status of the post, its responsibilities, and job requirements. The suitable qualifications, as well as the age as may be desirable, may also be taken into consideration, while making such an administrative decision.

24. Therefore, so long as the 25% quota remains fixed in the RRs for direct recruitments, the applicants cannot be allowed to plead that this Tribunal should issue a mandamus for cancelling the process of direct recruitment for 25% of the direct recruitment quota posts initiated by the respondents.

25. Therefore, we find no merit in the OA, and the same is, therefore, dismissed, but there shall be no order as to costs.

(Raj Vir Sharma)
Member (J)

(Sudhir Kumar)
Member (A)

cc.