

**Central Administrative Tribunal
Principal Bench**

**OA No.4036/2016
MA No.3608/2016**

New Delhi, this the 7th day of December, 2016

**Hon'ble Mr. Justice Permod Kohli, Chairman
Hon'ble Mr. Shekhar Agarwal, Member (A)**

1. Sh. P. S. Bisht
Aged 56 years,
S/o Late T. S. Bisht
Presently posted as
Joint Area Organizer (JAO)
Force Head Quarters (FHQ),
S.S.B. R. K. Puram,
East Block-V,
New Delhi 110 066.
2. Shri B. S. Tharkoti
Aged 55 years,
S/o Late Nandan Singh
Presently posted as
Joint Area Organizer (JAO)
O/o the Area Organizer
S.S.B., Adabari,
Kokrajhar, Assam.
3. Shri N. S. Negi
Aged 53 years,
S/o Shri B. S. Negi
Presently posted as
Joint Area Organizer (JAO)
Sector Head Quarters,
S.S.B., Sri Nagar,
Jammu & Kashmir.
4. Shri V. K. Loshali
Aged 53 years,
S/o Shri H. B. Loshali
Presently posted as
Joint Area Organizer (JAO)
S.B. Cabinet Secretariat,
Lucknow.
5. Smt. Amrita Mitra
Aged 51 years,
W/o Shri K. K. Mitra
Presently posted as
Joint Area Organizer (JAO)
SSB, A.O.,
Falakata, West Bengal.
6. Shri M. S. Negi
Aged 52 years,
S/o Shri D. S. Negi

Presently posted as
Joint Area Organizer (JAO)
R & AW, Cabinet Secretariat,
New Delhi.

7. Shri L. P. Nautiyal
Aged 57 years,
S/o Late B. P. Nautiyal
Presently posted as
Joint Area Organizer (JAO)
O/o I.G., SSB, Force Head Quarters,
Rani Danga, Siliguri,
West Bengal.
8. Shri Subhendu Saha
Aged 50 years,
S/o Shri N. N. Saha
Presently posted as
Joint Area Organizer (JAO)
A.O. Balrampur,
Uttar Pradesh.
9. Shri A. K. Srivastava
Aged 52 years,
S/o Late J. P. Srivastava
Presently posted as
Joint Commissioner
O/o Competent Authority and Administrator
Department of Revenue,
Ministry of Finance,
Chennai.
10. Shri P. P. K. Srivastava
Aged 52 years,
S/o Late P. K. C. Srivastava
Presently posted as
Joint Area Organizer (JAO)
Area Office, Narkkatia Ganj,
Bihar.
11. Shri K. K. Mitra
Aged 51 years,
S/o Late J. Mitra
Presently posted as
Joint Area Organizer (JAO)
A.O. SSB, Falakata,
West Bengal.
12. Shri B. C. Joshi
Aged 50 years,
S/o Late C. B. Joshi
Presently posted as
Joint Area Organizer (JAO)
O/o IG, SSB, Force Head Quarters,
Gomati Nagar, Lucknow,
Uttar Pradesh.
13. Shri Rajesh Bhardwaj

Aged 51 years,
S/o Late D. P. Bhardwaj
Presently posted as
Joint Area Organizer (JAO)
O/o I. G., SSB, FHQ,
Gomati Nagar, Lucknow,
Uttar Pradesh.

14. Shri J. C. S. Kapkoti
Aged 54 years,
S/o Late Uttam Singh Kapkoti
Presently posted as
Joint Area Organizer (JAO)
A.O., SSB, Lohaghat,
Distt. Champavat, Uttrakhand.

15. Shri R. N. Sharma
Aged 56 years,
S/o Late Kishori Lal Sharma
Presently posted as
Joint Area Organizer (JAO)
A.O., SSB, Maharaj Ganj,
P.O. Nautanwa Bazar,
Distt. Maharaj Ganj, UP.

.... Applicants.

(By Advocate : Shri Rajesh Katyal)

Vs.

1. Union of India
Through Secretary
Ministry of Home Affairs,
North Block,
New Delhi.
2. The Director General
Sashastra Seema Bal (SSB)
Force Head Quarters,
East Block-V, R. K. Puram,
New Delhi 110 066.
3. Union of India
Through Secretary
Department of Personnel and Training,
Ministry of Personnel, Public Grievances & Pensions,
North Block,
New Delhi.

... Respondents.

: O R D E R (ORAL) :

Justice Permod Kohli, Chairman:

MA No.3608/2016

Through the medium of this MA, applicants seek permission to file joint OA.

2. For the reasons recorded in the application, applicants are permitted to file joint OA. MA stands disposed of.

OA No.4036/2016

3. Heard.

4. Issue notice. Shri Hanu Bhaskar, learned standing counsel appears and accepts notice on behalf of the respondents.

5. The applicants are serving as Joint Area Organiser in SSB, i.e. the respondent No.2 organization. They are seeking their consideration for promotion to the post of Area Organiser. Earlier, under the service rules of 1977, namely, Special Service Bureau (Senior Executive) Service Rules, 1997 as amended vide Special Service Bureau (Senior Executive) Service (7th Amendment) Rules, they were eligible for promotion. The aforesaid recruitment rules were amended on 28.06.2013 by notifying Sashastra Seema Bal, Group 'A' and 'B' (Executive) Service Recruitment Rules, 2013 whereby the eligibility criteria for promotion from the post of Joint Area Organiser to Area Organiser was altered.

6. The grievance of the applicants is that similar amendment was made in Service Rules of Special Service Bureau for a combatised wing where under the eligibility criteria for promotion was altered. Some of the aggrieved persons in the combatised service approached the Hon'ble High Court of Delhi. The Hon'ble High Court on 21.04.2015 passed the following orders:-

“
ORDER
21.04.2015

1. On February 19, 2015 we had noted that the counter affidavit filed by the respondents evinces the recognition of the validity of the point urged by the writ petitioner concerning incorporating a note in the recruitment rules notified in the year 2013 as per DoPT OM dated March 25, 1996.

2. The reason was that the recruitment rules of Group A Officers of Shastra Seema Bal were amended in the year 2013. The

eligibility norms prescribed adversely affected some personnel holding the feeder grade. The DoPT OM in question, vide para 3.1.3, permits as under:-

“RETENTION OF EXISTING ELIGIBILITY SERVICE

3.1.3 Where the eligibility service for promotion prescribed in the existing rules is being enhanced (to be in conformity with the guidelines issued by this Department) and the change is likely to affect adversely some persons holding the feeder grade posts on regular basis a note to the effect that the eligibility service shall continue to be the same for persons holding the feeder posts on regular basis on the date of notification of the revised rules, could be included in the revised rules.”

3. Learned counsel for the respondent has produced the relevant record which shows that the Shastra Seema Bal took up the issue with the Ministry of Home Affairs i.e. Cadre Controlling Ministry, which in turn took up the issue with DoPT. The DoPT has no objection to the note being inserted in the Rules of 2013, but wanted it to be prospective for the reason one promotion made in the past was likely to be affected.

4. Learned counsel for the petitioner states that let the insertion of the note to incorporate the ethos and para 3.1.3 of the OM dated March 25, 1996, be made prospectively.

5. Accordingly, we dispose of the writ petition noting that the respondents have recognized the justification of the issue brought before this Court by the petitioner and have agreed to amend the 2013 Recruitment Rule by inserting the note incorporating para 3.1.3 of the OM dated March 25, 1996; but prospectively.

6. Since there is no impediment now in the insertion of the note in the Rules, clarifying that the same would be prospective, we dispose of the petition directing the respondents to make the necessary amendment to the Rules within 4 weeks.

7. Thereafter steps be taken to initiate the process of promotion.

8. No costs.”

Consequent upon the aforesaid directions, respondents vide notification dated 13.11.2015 incorporated Note-1A in the Schedule to the Sashastra Seema Bal Group A Combatised (General Duty) Director General, Additional Director General, Inspector General, Deputy Inspector General

and Commandant posts Recruitment Rules, 2013. The said note reads as under:-

“Note-1A-. The eligibility service shall continue to be the same for persons holding the feeder posts of Commandant and Area Organiser on regular basis as on the date of publication of the Principal Rules i.e. the 17th June, 2013.”

The applicants who are though governed by separate rules but in their cases as well, the eligibility criteria has been changed by the amendment of 2013 rules referred to hereinabove. They are also seeking similar relief in the present OA, which reads as under:-

- “(i) To direct the respondents to insert the note regarding the Retention of the Existing Eligibility Service Clause in the Recruitment Rules i.e. Sashastra Seema Bal Group A and B (Executive) Service Recruitment Rules, 2013 to give effect to the para 3.1.3 of the DoPT OM 25.03.1996 and OM dated 31.12.2010.
- (ii) To direct the respondents to hold the DPC for considering the case of the applicants for promotion to the post of Area Organisers from the date of acquiring eligibility as per the earlier rules i.e. Special Service Bureau (Senior Executive) Service (7th Amendment) Rules, 1990 after inserting the above note as mentioned/prescribed in para 3.1.3 of the DoPT OM 25.03.1996 and OM dated 31.12.2010.
- (iii) To pass such other and further order which this Hon’ble Tribunal may deem fit and proper.”

The applicants have also made representations dated 26.06.2015 (page 81 of the OA) and 19.11.2015 (page 83 of the OA). Their representations have also been forwarded by the authorities vide communication dated 29.06.2015 (Annexure A-8). The said representations have not been responded to till date.

7. In view of the above circumstances, without going into the merits of the controversy, this Application is being disposed of at the admission stage itself with the direction to the respondents to examine the aforesaid representations of the applicants in light of the order passed by the Hon’ble High Court of Delhi in W.P. (C) No.8904/2014, as quoted above, in respect to the combatised service and dispose of the same by passing

a reasoned and speaking order within a period of two months from the date of receipt of copy of this order.

(Shekhar Agarwal)
Member (A)

(Justice Permod Kohli)
Chairman

/pj/