

**Central Administrative Tribunal
Principal Bench**

OA No.4399/2013

New Delhi, this the 29th day of November, 2018

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)**

Dr. M. C. Mehanathan
23B, Telegraph Lane
New Delhi 110 001. Applicant.

(By Advocate : Shri Vishwendra Verma with Ms. Shivali)

Vs.

Union of India through

1. Secretary
Department of Personnel & Training
North Block,
New Delhi 110 001.
2. Secretary
Ministry of Home Affairs
North Block,
New Delhi 110 001. Respondents.

(By Advocate : Shri Vidya Sagar for Shri H. K. Gangwani)

: O R D E R (ORAL) :

Justice L. Narasimha Reddy, Chairman:

The applicant is an Officer of 1993 batch of Central Secretariat Service (for short, CSS). In the year 1993, the Government decided to promote the officers in the selection grade of CSS to the post of Joint Secretary, on *in situ* basis. The applicant was put in the Selection Grade Select List (for short, SGSL) for the year 1995. He became eligible to be considered for promotion as Joint Secretary in the year

2011 and was included in the short list. However, there was a ceiling of 60% of the posts available against the officers to be promoted from CSS to J.S. On account of that, the applicant and another person were left out. In the next year, both of them were promoted as Joint Secretary on *in situ* basis.

2. The case of the applicant is that he was entitled to be promoted in the year 2011 itself, but was promoted through order dated 29.10.2012. He contends that the imposition of ceiling of 60% was totally unjustified. It is also pleaded that the government itself raised the rigor of 60% and extended it to 75%, and despite that he is being treated as having been promoted only w.e.f. 29.10.2012.

3. The respondents opposed the OA by filing counter affidavit. It is stated that though the applicant was one of the short listed candidates in the year 2010, he could not be promoted as J.S. on account of the ceiling limit of 60% at the relevant point of time. It was also stated that the ceiling was raised to 75% in July, 2012, and it would be operative only prospectively.

4. We heard Shri Vishwendra Verma, learned counsel for the applicant and Shri Vidya Sagar for Shri H. K. Gangwani, learned counsel for the respondents.

5. The only question that arises for our consideration is as to whether the applicant is entitled to be promoted to SGSL post of J.S. with effect from the year 2011 on *in situ* basis. It is not in dispute that he became eligible to be considered in that year and was included in the short list also. The appointment could not be given to him because of the imposition of 60% ceiling limit.

6. The respondents fairly admitted in their counter affidavit that the ceiling of 60% was raised to 75% through order dated 09.07.2012 w.e.f. 01.01.2010, to be in force for a period up to 31.12.2014, in view of the additional requirement of the officers at Joint Secretary level at the Centre. In view of this relaxation, several persons were promoted. However, the benefit was not extended to the applicant. There is hardly any basis for this. The relevant paragraph of the Minutes dated 14.09.2012 reads as under:-

“3. Vide orders dated 9.7.2012, ACC has recently approved the enhancement of the existing ceiling of 60% of eligible officers of a batch being assessed for initial empanelment at the level of Joint Secretary to 75%. It was also approved that this one-time dispensation would be in operation with effect from 1.1.2010, 75% of the officers would be eligible for empanelment. The cut off date of 1st January, 2010 has been recommended based on the fact that new empanelment guidelines even though issued in 2009, had come into operation only from 2010.”

Once the relaxation is made to operate w.e.f. 01.01.2010, there is no reason as to why the case of the applicant is not covered by that. In the same note, it was also mentioned that the applicant and another officer were cleared from vigilance angle also, during that period. In the counter affidavit, except stating that the applicant was appointed in the subsequent year in view of the enhancement of the ceiling to 75%, it is not stated as to why the relaxation was not extended to the applicant.

7. We, therefore, allow the OA and direct that the applicant shall be deemed to have been promoted to the post of Joint Secretary on *in situ* basis w.e.f. 22.07.2011, the date on which, his other batchmates were promoted, and consequential benefits shall also be extended to him.

There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/pj/