

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...

O.A. No.060/631/2017

Date of decision: 09.04.2019

...

**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J).
HON'BLE MRS. P. GOPINATH, MEMBER (A).**

...

1. Narinder Kaur aged about 59 years (KKK Coach) W/o Sh. Pritpaul Singh, working as KKK, Coach Grade-1, Sports Authority of India, posted at Punjab University, Extension Centre, Chandigarh.
2. Balwinder Kaur aged about 60 years (KKK Coach) W/o Sh. Harkirat Singh, working as KKK, Coach/Grade-1, Sports Authority of India, office of Distt. Sports Officer, Hoshiarpur at present Faghwara Road Purheera, Ward No.19, Hoshiarpur.
3. Pardeep Kumar Thakur, aged about 60 years, (KKK Coach), S/o Sh. Chatter Singh, retired as KKK, Coach/Grade-1, Sports Authority of India, Regional Office, Sector-42, Chandigarh at present House No.179, Phase-4, Mohali.

... APPLICANTS

VERSUS

1. Director General, Sports Authority of India, Jawahar Lal Nehru Stadium, East Gate, Lodhi Road Complex, New Delhi through its Director General.
2. Director Incharge, North Centre, Sports Authority of India, Hockey Stadium, Sector-42, Chandigarh.
3. Ms. Jhansi Ran V., Chief Coach KKK, SAI, STC, ASR Stadium, Eluru, Andhra Pradesh-534005.
4. Sh. Gopa Kumar J. Chief Coach KKK, SAI, STC, LB Stadium Kollam, Kerala-691001.
5. Ms. Rajeshwari Mhetre, Chief Coach TT, SAI, STC, Near Samta Nagar Police Station, Akrudi Road, Kandivali East, Mumbai, Maharashtra-400101.
6. Sh. Ramesh Kumar Patel, Chief Coach Gymnastics, O/o Director, Netaji Subhash Centre Sports Complex, Sector-15, Gandhinagar (Gujrat)-382015.

7. Sh. K. K. Jaggi, Chief Coach, Basketball, O/o Director, Punjab Institute of Sports, International Hockey Stadium, Phase-9, Mohali (Punjab).
8. Sh. Madan Mohan Malhan, Chief Coach Basjetball, SAI, Academics, NSNIS, Moti Bagh, Patiala.
9. Sh. G. Cheena Reddy, Chief Coach Handball, SAI, STC, Outdoor Stadium, Club Road, Kurnool, Andhra Pradesh-518004.
10. Ms. Chitra Gangadharan, Chief Coach Football, SAI, STC, NS Southern Centre, University Compus, Masoor Road, Kaneri, Bangalore, Karnataka.
11. Sh. Kumara, MH, Chief Coach Vollyball, SAI, Academics, NS Southern Centre, University Compus, Masoor Road, Kangeri, Bangalore, Karnataka.
12. Ms. Shephali Moulik, Chief Coach, Gymnastics (retired), O/o Director, SAI, COE, NSEC, Salt Lake City, Sector-3, Kolkata.
13. Ms. Usha Kiran, Chief Coach, Gymnastics (Retired), H. No.D-15, Durga Nagar, Ambala Cantt., Haryana.
14. Sh. Vasu Thaphyal, Chief Coach Hockey, SAI, Academics, NS Southern Centre, University Compus, Masoor Road, Kangeri, Bangalore, Karnataka.
15. Sh. Jugal Kishore Rajpurohit, Chief Coach TT, SAI, SCC, Jaipur (Rajasthan).
16. Sh. Radhakrishan Nair, Chief Coach KKK, SAI, STC, LB Stadium, Kollam, Kerala-691001.
17. Ms. Gurmeet Kaur, Chief Coach, Hockey, SAI, Coaching Division, Jawaharlal Nehru Stadium Complex, East Gate (Gate No.10), Lodhi Road, New Delhi-110003.
18. Sh. Prem Kumar K, Chief Coach Volleyball, SAI, SCC, Dddupi, Karnataka.
19. MS. Balwant Kaur, Chief Coach Vollyball, SAI, STC, Kurukshetra (Haryana).
20. Sh. Mohan Krishnan PA, Chief Coach Hockey, SAI, STC, Trichur, Trivandrum.
21. Sh. Arvind Kr. Sharma, Chief Coach Weight Lifting, SAI, STC (GGS), Sub Centre, Sarojni Nagar, Kanpur Road, Lucknow (Uttar Pradesh).
22. Ms. Shyamala Shetty, Chief Coach Weight Lifting, SAI, COE, Bangalore, Karnataka.
23. Ms. Neelam Sharma, Chief Coach Gymnastics, SAI, STC, NSNIS, Moti Bagh, Patiala.
24. Sh. Satish Kumar-II, Chief Coach, Football, Incharge, Sports Authority of India, SAG (Special Area Gae), Training Centre, Kargil (J&K).
25. Sh. J.S. Bhullar, Chief Coach Swimming,SAI, STC, NSNIS, Moti Bagh, Patiala.
26. Sh. Sunil Kumar, Chief Coach Basketball, SAI, Academics, NSNIS, Patiala.

27. Sh. Birswar Paul, Chief Coach Volleyball, R/o Village Malipara, P.O. Talandu, Distt. Hoogly, West Bangate, Kolkata-712148.
28. Sh. Vijay Kumar, Chief Coach Hockey, SAI, STC, Badal, Distt. Bathinda (Punjab).
29. Sh. Dayal Singh Rawat, Chief Coach Football, SAI, Extension Centre Mamta Modern School, Vikaspuri, Delhi.
30. Sh. Purshotam Saini, Chief Coach Athletics, AI, STC, Jodhpur (Rajasthan).
31. Ms. Indu Behal, Chief Coach Hockey, Ext. Centre Punjab University, Sector-14, Chandigarh.
32. Ms. Kiran Bala, Chief Coach Cycling, SAI, STC, Kurukshetra, Haryana.
33. Sh. Bikramjit Singh, Chief Coach Handball, SAI, STC, NSWC, Sector-5, Gandhinagar, Gujrat.
34. Sh. Syed Mustafa T., Chief Coach Handball, SAI SAG, Jaitpur Indore Ahmadabad Road, Dhar, Madhya Pradesh.
35. Sh. Manjit Singh Cheema, Chief Coach Cycling, SAI, Cycling Academy, IG Stadium, New Delhi.
36. Ms. Mary Victoria A, Chief Coach Football, LNCPE, Kariavottam, Post Box No.3, Trivandrum.
37. Sh. (Dr.) Rajinder Kumar Pathania, Chief Coach Gymnastics, SAI, IG Stadium, New Delhi.
38. Sh. Varinder Kumar Verma, Chief Coach Athletics, SAI, Academics, NSSC, Bangalore, Karnataka.
39. Ms. Minara Begum, Chief Coach Gymnastics, SAI, STC, Trivandrum.
40. Sh. Jiwan Sharma, Chief Coach Judo, SAI, STC, Udhav Das Mehta, Bhaji Central, Regional Centre, Village Gram Gora, Bhashenkeri, Bhadhada Road, Bhopal (MP).
41. Ms. Divya Sharma, Chief Coach Judo, SAI, STC, Udhav Das Mehta Bhaji Central, Regional Centre, Village Gram Gora, Bhashenkeri, Bhadhada Road, Bhopal (MP).
42. Sh. Satish Bagal, Chief Coach Judo, SAI, STC, Near Samta Nagar Police Station, Akrudi Road, Kandivali East, Mumbai, Maharashtra-400101.
43. Ms. Sabitri Channu, Chief Coach, Judo, Sports Authority of India, SAG (Special Area Game), Training Centre, Imphal (Manipur)-795001.
44. Ms. Suman Gogi, Chief Coach, Judo, STC Bawana, Houz Rani, SAI Extension Centre, Houz Rani School, New Delhi.

... RESPONDENTS

PRESENT: Sh. Sanjiv Pandit, counsel for the applicants.
 Respondents no.3, 10, 12, 22, 29, 31 & 36 Ex-party.
 Sh. P.C. Goyal, counsel for other respondents.

ORDER (Oral)

SANJEEV KAUSHIK, MEMBER (J):-

1. Preent O.A. has been filed against minutes of DPC meeting held on 05.10.2016 to the extent of declaring the applicants unfit for promotion to the post of Chief Coach, orders dated 15.5.2017 and 18.5.2017 (Annexures A-1 to 3), vide which persons junior to applicants have been promoted and they (applicants) have been denied promotion. Further direction has also been sought commanding the respondents to convene a review meeting of the DPC to consider their case for promotion from the date private respondents, who are admittedly junior to the applicants, have been so promoted along with all consequential benefits.
2. Facts broadly are not in dispute.
3. Applicants were initially appointed as Kho Kho Coach (KKC) on different dates as indicated in para no.2, 3 and 4 of the O.A. They were promoted as Coach Grade-III between 1986 and 1987. Thereafter between 1992 to 1996 they were promoted as Coach Grade-II. Thereafter on 24.12.2008 they were promoted to the post of Grade-1/Senior Coach in the pay scale of Rs.15600-39100+6600 (GP). On 4.9.2015 provisional seniority list of Coaches Grade-1 was issued in which the name of the applicants were at Sr. No.6, 41 and 58. Final seniority list after consider objections was issued on 31.8.2016 where names of the applicant finds mention at serial no.4, 33 and 57 and private respondents no.3 to 44 were juniors to them as per seniority list. Next promotional post is of Chief Coach for which Grade-1 Senior Coach with 5 years' service with bench-mark of 'Very Good' in ACR is eligible for promotion. DPC for promotion to

the post of Chief Coaches was held on 5.10.2016 where case of the applicants was considered and only 54 senior Coaches were found eligible in terms of relevant recruitment rules. Vide order dated 14.10.2016, respondents have promoted only 45 Senior Coaches as Chief Coach. Applicants were denied promotion against which they submitted representation followed by legal notice and when they did not receive any reply, they filed application under RTI Act, 2005. Thereafter only for the first time, they came to know that their case was rejected because they were found unfit because they were having below bench mark ACRs and their representation was also rejected.

4. We have heard learned counsel for the parties and have perused pleadings available on record.
5. Learned counsel for the applicants vehemently argued that impugned action of the respondents in declaring applicants unfit on the basis of ACRs, where Bench-mark was not up to mark, is liable to be set aside as the same were never communicated to them and therefore, cannot be utilized to reject their case. He submitted that had the respondents communicated these below the bench-mark ACRs to applicants, they would have submitted representation for upgradation of the same in view of the judgment in the case of **Dev Dutt vs Union Of India & Ors.** 2008 (8) SCC 725, followed in the case of **Abhijit Ghosh Dastidar vs Union Of India & Ors.** 2009 (16) SCC 146. He also drew benefit from ratio laid down in the case of **Prabhu Dayal Khandelwal vs. Chairman UPSC & Ors.** (Civil Appeal No.8006-8007/2003 decided on 23.07.2015, where similar controversy has been put to rest by the Lordships. Therefore, he

prayed that impugned order be set aside and respondents be directed to communicate below bench mark ACRs with liberty to applicants to submit representation and thereafter respondents be directed to reconsider such representation and pass order in accordance with law.

6. Respondents have filed written statement wherein in reply to para 4(ix) they have admitted that applicants are having ACRs below bench-mark and those were never communicated to them. It has also not been disputed that bench mark for promotion to the post of Chief Coach is "Very Good". Learned counsel for the respondents is not in position to cite any law contrary to one cited by learned counsel for the applicants.
7. We have given our thoughtful consideration to the matter.
8. We are of the view that this petition deserves to be allowed as it is settled proposition of law in the case of Dev Dutt (supra) that if a particular bench-mark has been set up for promotion to a post and if employee is having below bench-mark ACRs, then those have to be communicated to him so that he can submit representation for upgradation of those marks. This view has consistently been followed including in the case of Abhijit Ghosh Dastidar (supra) and then in the case of Prabhu Dayal Khandelwal (supra).
9. In the wake of the above, we are left with no option but to accept this O.A. Accordingly, respondents are directed to communicate below bench-mark ACRs to the applicants within a period of one month from the date of receipt of a certified copy of this order and if applicants submit representation within 15 days thereafter then respondents are directed to consider the same. If ACRs of the

applicants are upgraded then respondents are directed to reconsider their case for promotion and promote them if otherwise found eligible, from the date their juniors were given such promotion. The O.A. stands disposed of accordingly. No costs.

(P. GOPINATH)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Date: 09.04.2019.
Place: Chandigarh.

`KR`

