

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

O.A./100/1395/2014
M.A./100/1712/2015

New Delhi, this the 12th day of September, 2019

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)**

1. Babu Paul, Age about 53 years
S/o Late Shri P.P. Poulose, working as Under Secretary
R/o Flat No. B-12, External Affairs Hostel,
Kasturba Gandhi Marg,
New Delhi-110001
2. Utpal Kumar Aich, Age about 59 years
S/o Late Shri D.C. Aich, working as Under Secretary
R/o Flat No. B-201, Shubham Apartment
Plot No. 13, Sector 22, Dwarka,
New Delhi-110077

(Through Shri M.K. Bhardwaj, Advocate)

Versus

1. Union of India,
Ministry of External Affairs,
Government of India, South Block,
New Delhi (Through Foreign Secretary)
2. The Secretary,
Department of Personnel & Training
Ministry of Personnel, Pensions & Public Grievances
North Block, New Delhi
3. The Secretary,
Union Public Service Commission,
Dholpur House, Shahjahan Road,
New Delhi-110001

(Through Shri Manjeet Singh Reen, Advocate)

ORDER (Oral)

Justice L. Narasimha Reddy, Chairman

The applicants are the officers of Indian Foreign Service (IFS) in Group (B). On 17.03.2018, they were promoted as Under Secretary Grade-I. Further promotion is to the IFS (Group 'B').

2. The applicants contend that the Government of India has taken a decision to enhance the cadre strength of IFS, both Group 'A' and 'B' every year from 2008-2009 to 2017-2018 and as regards the vacancies of 2012-2013, though the process for direct recruitment against IFS Group 'A' was completed, they were not promoted against the vacancies of that year. They submit that the promotion was effected only against the vacancies of 2013-2014 and thereby they were denied the benefit of induction into IFS (Group 'B').

3. The respondents filed counter affidavit opposing the OA. It is stated that the decision to enhance the personnel strength for a period of ten years between 2008-2009 and 2017-2018, was taken in 2008 itself and the vacancies were being increased year after year. In relation to the recruitment year of 2012-2013, it is stated that the anticipated vacancies were notified to the Union Public Service Commission (UPSC), and as regards the promotion, though the DPC met on 6.09.2012, the note for enhancing the personnel strength was

approved by the Prime Minister only on 12.10.2012. According to the respondents, the DPC shall never take into account, the anticipated vacancies in the context of promotion and the exercise undertaken for the existing vacancies cannot be found fault with.

4. We heard Shri M.K. Bhardwaj, for the applicant and Shri Manjeet Singh Reen, for the respondents.

5. It is a matter of record, that in the year 2008 itself, the Union Cabinet has taken a decision to enhance the personnel strength in the Ministry of External Affairs, continuously for a period of ten years upto 2017-2018. The number of posts to be created each year would depend upon several factors. The final decision in this behalf would emerge only when the approval is accorded by the highest authority in the executive.

6. For the year 2012-2013, a decision was taken to enhance the strength of IFS (Group `B') by 12 posts and IFS (Group `A') by 8. Since the recruitment to Group `A' is taken up by the UPSC, the intimation was given well in advance. By its very nature, the intimation to UPSC will indicate only the tentative vacancies, which include the anticipated vacancies. In contrast, the promotion can be only against the existing vacancies. The DPC must have before it, the clear vacancies and, under no circumstances, it would recommend

candidates against the anticipated vacancies. The justification pleaded by the respondents in this behalf is contained in para 4 of the counter affidavit, which reads as under:

“4. That it is submitted that the DPC meeting to consider promotion of officers of Grade I of IFS (B) to Sr. Scale of IFS for the recruitment year 2012-13 was held on 06.09.2012. There were 35 available vacancies for consideration in terms of Rule 13 (2) of IFS (RCSP) Rules 1961. Since the approval of the PM could be obtained for MEA expansion vacancies only on 12.10.2012 i.e. after the Sr. Scale DPC meeting already held on 06.09.2012, the 12 additional vacancies were not taken into consideration for recruitment year 2012-13 as clear available vacancies. For promotion to Senior Scale of IFS, the standard DPC procedure is followed which states that the vacancies to be taken into account should be the clear vacancies arising in a post/grade/service due to death, retirement, resignation, regular long-term promotion and deputation or from creation of additional posts on a long term basis. Therefore, in the promotion to Sr. Scale of IFS, the DPC has never taken into account the anticipated MEA expansion plan vacancies and has always considered the available clear vacancies including MEA expansion plan vacancies.”

7. It is the ill luck of the applicants that the note circulated to the Hon'ble PM was approved on 12.10.2012 whereas the DPC met on 6.09.2012.

8. This is not a case in which the applicants suffered any detriment on account of interpolation of seniority between the direct recruits on the one hand and promotees on the other. The channels for these two are separate in the IFS. Further, no officer has overtaken the applicants on account of delay in filling the posts that were meant for the recruitment year 2012-2013.

9. We do not find any merit in the OA and it accordingly dismissed. There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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