

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No. 2819/2019

New Delhi, this the 23rd day of September, 2019

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

Shri Virendra Prakash Singh,
Aged about 52 years,
Working as Director, Group A,
O/o Director General of Civil Aviation,
Opp. Safdarjung Airport, Aurobindo Road,
New Delhi.

...Applicant

(By Advocate: Mr. Anupam Verma)

Versus

1. Union of India through Secretary,
Ministry of Civil Aviation,
Rajiv Gandhi Bhawan,
Safdarjung Airport,
New Delhi – 03.
2. Director General,
Directorate of Civil Aviation,
Technical Centre, Govt. of India,
Rajiv Gandhi Bhawan, New Delhi.
3. Union Public Service Commission through
Its Secretary,
Shahjahan Road, New Delhi.
4. Secretary, Department of Personnel & Training,
North Block, Central Secretariat, New Delhi – 110001.

...Respondents

(By Advocate: Mr. R. V. Sinha with Mr. Amit Sinha for
Respondent No. 3 and Mr. Rohit Sehrawat for Mr. Rajeev
Kumar)

O R D E R (ORAL)**Justice L. Narasimha Reddy, Chairman:-**

The applicant is working as Director (Group -A) in the office of Directorate of Civil Aviation, the 2nd respondent herein. Next promotion is to the post of Deputy Director General (DDG). For the vacancies that were anticipated in the year 2019, the DPC met in June, 2019 and recommended the names of 03 eligible officers. The applicant contends that 02 more vacancies have arisen on 26.08.2019 on account of promotion of two officers by name Mr. Pradeep Pathak and Mr. P. K. Srivastava as Joint Director General (JDG) in the Level – 14 of the Pay Matrix and had these vacancies were taken into account, he was entitled to be considered, against one of them. This OA is filed for the relief, in this background.

2. We heard Mr. Anupam Verma, learned counsel for the applicant and Mr. R. V. Sinha with Mr. Amit Sinha and Mr. Rohit Sehrawat for Mr. Rajeev Kumar, learned counsel for the respondents at the stage of admission itself.

3. The applicant has furnished a list of 10 officers, who were working as DDG as on 15.01.2019. Out of them 03 officers, by name, Mr. Biplab Datta, Mr. K. P. Srivastava and Mr. A. Shanmugam were scheduled to retire on

31.01.2019, 28.02.2019 and 28.02.2019, respectively. The DPC met in June, 2019 and recommended the officers for promotion against those vacancies. The applicant has no grievance about this.

4. Two officers, by name, Mr. Pradeep Pathak and Mr. P. K. Srivastava were promoted to the post of JDG on 26.08.2019. The applicant contends that the DPC for promotion to the post of JDG was held long back and the probable vacancies ought to have been taken into account. The argument is totally misconceived. Anticipated vacancies are those, that arise due to retirements during that year. They can be notified even before the actual retirement. In contrast, vacancies due to promotion of the officers in the cadre to a higher posts can be notified only when they occur. The mere fact that the DPC for superior post was held, does not by itself create a vacancy. The DPC for the post concerned cannot recommend names against uncertain vacancies.

5. It is not in dispute that in June 2019 only 03 vacancies existed and recommendations were made for those vacancies. The OMs issued requiring the DPC to take into account, the anticipated vacancies, refers to vacancies, which may arise on account of retirement of officers up to

the end of the year. For example, the DPC met in June 2019 and an officer in the promotion post is scheduled to retire in October 2019. Even that has to be taken into account. However, the vacancy that may arise on account of the promotion of the officer does not come within that category. Further the DPC can make recommendations only against the vacancies, notified to it.

6. We do not find any basis to entertain the OA and the same is, accordingly, dismissed. There shall be no order as to costs.

**(Mohd. Jamshed)
Member (A)**

**(Justice L. Narasimha Reddy)
Chairman**

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