

**Central Administrative Tribunal  
Principal Bench**

**OA No.3326/2012**

New Delhi, this the 22<sup>nd</sup> day of August, 2019

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

1. Sh. Padmender Singh Rawat  
S/o Sh. G.s. Rawat  
R/o D-134, B.K. Dutt Colony  
Lodhi Road, New Delhi-3.
2. Ms. Santosh Ramrakhiani  
W/o Sh. Desh Kumar Ramrakhiani  
R/o O-34, Lajpat Nagar-II, New Delhi-24.
3. Sh. Darshan Lal  
S/o Late Sh. A.R. Manocha  
R/o D-47, Gharondha Apartments  
Shestra Vihar, Delhi-92.
4. Ms. Sonia Kuashal  
W/o Sh. Rajiv Kaushal  
R/o Flat No.468, MIG Duplex Flats  
Vikas Kunj Society  
Vikas Puri, Delhi.
5. Sh. Ajay Katyal  
S/o Sh. Om Prakash Katyal  
R/o C-21/B, Second Floor  
Single Storey Vijay Nagar  
Delhi-9. ....Applicants

(By Advocates: Shri M.K. Bhardwaj, Shri Ketan Madan  
and Shri Himanshu Harbola)

Vs.

1. Ministry of Home Affairs  
Through its Secretary, Union of India  
North Block, New Delhi.

2. Commissioner of Police  
PHQ, MSO Building  
IP Estate, New Delhi.
3. Joint Commissioner of Police  
(Headquarters)  
PHQ M.S.O. Building  
I.P. Estate, New Delhi.
4. Sh. Virender Singh  
(Stenographer) No.1020-D  
IS No.25930002
5. Sh. Tirath Babu  
(Stenographer) No.1020-D  
PIS No.25920005
6. Sh. Pawan Kumar  
(Stenographer) No.1022-D  
PIS No.25920004. ....Respondents

(By Advocates: Ms. Harvinder Oberoi, Shri Nilansh Gaur with Shri Karan Chawla)

### **ORDER (ORAL)**

#### **Justice L. Narasimha Reddy:-**

This OA is being heard and disposed of after remand by the Hon'ble High Court of Delhi.

2. The applicants were appointed as ASI(Steno) in the Delhi Police. At the relevant point of time, the cadre of Stenos in Delhi Police comprised of 111 ASI(Steno) and 3 Inspector(Steno). Through an order dated 09.05.2012, the cadre was restructured in such a way that the posts of ASI(Steno) are reduced from 111

to 80 and, the ASI(Steno) appointed through the process of direct recruitment were re-designated as SI. The post of Inspector cadre which was earlier 3 in number, was enhanced to 34.

3. Through an order dated 14.08.2012, as many as 30 Sub-inspector stenographers (who are re-designated from the post of Assistant Sub-inspectors) were promoted to the post of Inspector. Reservation in promotion was implemented and the respondent nos. 4 to 6 were promoted on the basis of reservation. The applicants filed a representation stating that what has taken place on 14.08.2012 is only restructuring, and not promotion, and that there was no basis or occasion for implementation of reservation in promotion. That representation was rejected through an order dated 27.08.2012. The same is challenged in this OA.

4. A similar issue was raised in OA No. 3623/2011. The said OA, along with the instant OA, were allowed through judgment dated 22.04.2014.

5. Respondent nos. 4 to 6 herein filed Writ Petition No. 3359/2014 raising several contentions. It was

mentioned that the Tribunal applied the principle laid down by the Hon'ble Supreme Court in ***M. Nagaraj & Ors. vs. Union of India*** 2006 (8) SCC 212, though there was no factual basis for that. The Writ Petition was allowed on 28.02.2017 and the case was remanded to the Tribunal. It was mentioned that if the applicants in the OA are so advised, they can seek amendment of the pleadings to incorporate the plea, referable to the judgment in M. Nagaraj's case.

6. After remand, the present OA was heard separately when the parties pleaded that the facts in both the OAs are different. OA No. 3623/2011 was allowed through an order dated 15.05.2009.

7. Sh. M.K. Bharadwaj, learned counsel for the applicants, submits that what has taken place in the cadre of Stenos in the Delhi Police is just a restructuring and the senior most ASIs, were initially redesignated as SIs and thereafter, moved to the post of Inspector and in that view of the matter, there was no occasion to implement the reservation.

8. Ms. Harvinder Oberoi and Sh. Nilansh Gaur, learned counsel for the respondents, on the other hand, submit that though the re-structuring has taken place in the cadre, it was in such a way that the ASI(Steno) who are rendered surplus were not moved to the higher cadre of Inspectors, otherwise than through promotion. Another plea is that the promotions were effected after convening DPC and it was promotion, pure and simple.

9. It has already been mentioned that the cadre of Stenos in Delhi Police comprised of 111 ASI(Steno) and 3 Inspector(Steno) before it was restructured on 09.05.2012. The method of re-structuring is indicated as under:

"I am directed to refer to the meeting held in MHA on 09.04.2012 under the chairmanship of Shri K.K. Pathak, JS (UT), MHA with Shri M.A. Ashraf, Addl. Secretary (Home), Government of NCT of Delhi and Shri Virender Singh Chahal, Joint Commissioner of Police (Hqr.) Delhi, while the representatives of Stenographers' Cadre of Delhi Police were also present and to state that the restructuring of Stenographers' Cadre of Delhi Police has been finalized with the approval of the Ministry of Finance vide their I.D. Note No. 2(7)/E.III Desk/2010 dated 01.05.2012 as under:-

(i) The entry to Stenographers Cadre of Delhi Police will continue to be at the level of ASI (Steno) (PB.II, Grade Pay Rs. 4200/-).

The total number of posts in this grade will be 80 instead of present 111. Necessary steps will be taken to safeguard the interests of present incumbents of the posts of ASI(Steno) till they either get promoted or superannuated.

(ii) The directly recruited ASI(Steno) will be elevated as SI(Steno) in the same scale of pay i.e., PB-II with Grade Pay of Rs. 4200/- after the successful completion of probation period.

(iii) The number of posts in the Inspector Grade (PB.II Grade Pay Rs. 4600/- is raised from present 3 to 34 by creating 31 posts. The total number of posts in the Stenographers Cadre will continue to remain the same as 114.

(iv) The Stenographers' Cadre of Delhi Police will be a separate cadre and no lateral movement to the other cadres of Delhi Police such as Ministerial cadre of Executive cadre will be permissible. The Inspector/Steno will not be eligible for inclusion in the Common Seniority List of Inspectors being considered for induction into DANIPS.

2. In the light of approval as above, further necessary action may be taken first to amend/re-notify the RRs and thereafter, promote the eligible personnel of Stenographers' Cadre of Delhi Police. While promoting the eligible ASI(Steno) to the newly-created posts of Inspector (Steno), appropriate declaration from the existing ASI(Steno) may be obtained that they are aware that they have no claim to get inducted into DANIPS Cadre.

3. Similarly, the existing confirmed ASI/Stenos, who have already completed their probation period successfully, be elevated to the post of SI/Steno in the same PB-II and Grade Pay Rs. 4200/-.

4. The amended RRs of separate Stenographers' Cadre may be re-notified by the GNCTD under intimation to this Ministry and thereafter, Delhi Police may take further action as per the amended notified RRs.

5. This issues with the approval of JS(UT), MHA."

10. From this, it becomes abundantly clear that the strength of ASI(Steno) which was 111 before re-structuring was reduced to 80. Such of the ASI(Steno) who are directly recruited were re-designated or elevated as SI(Steno), but in the same scale of pay. The substantial change is the enhancement in the number of posts in the Inspector cadre from 3 to 34.

11. Had it been a case where ASI(Steno) who are rendered surplus on account of re-structuring, were elevated or moved to the post of Inspector without subjecting them to any selection process, the plea of the applicants could certainly have been accepted. A perusal of the second sentence in Para (i) of the order dated 09.05.2012 makes it clear that the interest of ASIs who are rendered surplus on account of re-structuring were safeguarded and the method of moving out from the cadre of ASIs was confined to the one of promotion or superannuation. There was no

automatic movement from this cadre to that of Inspector cadre.

12. The issue can be understood well by drawing comparison with the facts in OA No.3623/2011. That was a case in which the restructuring resulted in disappearance of an existing post altogether and creation of a new one. The order of restructuring itself provided for an automatic movement of the employees from the disbanded post, to the newly created one. In the instant case, however, the posts remained the same except that their respective numbers changed. The increase in the post of Inspector was not the result of re-designation of the posts of ASI(Steno). The language employed in the order of restructuring is very clear on this aspect.

13. Once it emerges that the restructuring did not result in automatic movement of employees from the post of ASI (Steno) to Inspector and it was purely by way of regular promotion, the respondents are certainly justified in applying the principal of reservation in promotion.

14. Then comes the question as to whether the principles governing the reservation in promotion were followed. Earlier, the judgment of the Hon'ble Supreme Court in ***M. Nagraj's*** case held the field. The appointing authority was placed under an obligation to satisfy the requirements such as collection of the quantifiable data, representation of the category in the promotional post and the application of the creamy layer. This, however, was modified to a certain extent in the judgment dated 26.09.2018 of the Hon'ble Supreme Court in ***Jarnail Singh vs. Lachhmi Narain Gupta.***

15. In this uncertain state of affairs, it is not possible for us to test the reservation which has already been effected from those parameters. It is for the applicants to submit a representation, pointing out the deficiency, if any, in this behalf. That would provide an opportunity for the respondents to verify the compliance with the parameters stipulated by the Hon'ble Supreme Court.

16. We, therefore, dismiss the OA in so far as the applicants challenge the implementation of reservation

in promotion to the post of Inspectors, in the cadre of Stenographers, in the Delhi Police. However, we leave it open to the applicants to make representation, as regards the alleged non compliance with the parameters that are stipulated by the Hon'ble Supreme Court in its judgment in Jarnail Singh's case, in the context of implementation of reservation in promotion. If the representation is made, necessary reply in that behalf, shall be given within a period of three months.

17. There shall be no order as to costs.

**(Mohd. Jamshed) (Justice L. Narasimha Reddy)**  
**Member(A) Chairman**

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