

PETITIONER:
A.K. BHATNAGAR AND ORS.

Vs.

RESPONDENT:
UNION OF INDIA AND ORS.

DATE OF JUDGMENT 09/11/1990

BENCH:
MISRA, RANGNATH (CJ)
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MISRA, RANGNATH (CJ)
PUNCHHI, M.M.
RAMASWAMY, K.

CITATION:
1990 SCR Supl. (2) 638 1991 SCC (1) 544
JT 1990 (4) 610 1990 SCALE (2) 949

ACT:
Central Information Service Rules, 1959--Rule
5--Direct Recruits---Inter seniority--Fixation of.

HEADNOTE:

Respondent no. 1 in the Civil Appeal of 1985, moved the High Court in a writ to consider his case for promotion to Grade II and Grade I of the Central Information Service in the existing vacancies arising subsequent to 1964 by taking into consideration the period of his ad hoc service from the year 1964, and challenging the direction in the Government order requiring the regularised employees to be placed below the regular recruits upto 1970 on the basis of that year's examination. The Union Government opposed the claim.

The Single Judge held that the officiating service would not be ignored once regularisation was made and directed the period of ad hoc service to be taken into account. The Division Bench affirmed the decision.

The appellant in the C.A. of 1985 challenged the High Court's decision, and the appellants in the two Civil Appeals challenged the judgments of CAT which followed the High Court's decision. The writ petition under Article 32 was by 29 employees whose services were regularised.

Dismissing the Writ Petition and allowing the Civil Appeals, this Court,

HELD: 1. Seniority is an incidence of service and where the service rules prescribe the method of its computation, it is squarely governed by such rules. In the absence of a provision ordinarily the length of service is taken into account. A dispute of such nature normally arises between recruits from two sources, namely direct and promotees. [642C-D]

2. Reliance on the ratio of cases where disputes of inter se seniority

between direct recruits and promotees on the basis of officers of one category manning the posts meant for the other category should not have been relied upon for determining a dispute of the nature that arose in these cases. Since rules are clear and the Government action was within the purview of the rules, judicial interference was not

called for. [642 G-H]

3. When there is a definite rule dealing with seniority and they had subjected themselves to that process, their seniority in terms of the rules had to be regulated according to the merits of the respective lists in the years when the examinations were held. [643D]

4. The Union and the State Governments once frame the rules, their action, in respect of matters covered by the rules, should be regulated by the rules. The rules framed in exercise of powers conferred under the proviso to Article 309 of the Constitution are solemn rules having binding effect. Acting in a manner contrary to the rules does create problem and dislocation. Very often Government themselves get trapped on account of their own mistakes or actions in excess of what is provided in the rules. Court takes serious view of these lapses and hopes anti-trusts that the Government both at the Centre and in the States would take note of this position and refrain from acting in a manner not contemplated by their own rules. [643F-G]

JUDGMENT: