

PETITIONER:
CHIEF COMMISSIONER (ADMN.) & COMMISSIONER OF INCOME-TAX,

Vs.

RESPONDENT:
K.C. SHARMA & ORS.

DATE OF JUDGMENT: 02/09/1998

BENCH:
SUJATA V. MANOHAR, S. RAJENDRA BABU

ACT:

HEADNOTE:

JUDGMENT:
[With C.A. No. 4569 of 1998 (arising out of S.L.P. (c)
No. 7071 of 1993]

J U D G M E N T

Sujata V. Manohar. J.
Leave granted in S.L.P. (C) No. 7071 of 1993.
Civil Appeal No 4028 of 1993

This appeal is from a judgment and order of the Central Administrative Tribunal, Principal Bench, dated 27.11.1992 by which the Tribunal has set aside the Income tax Department Recruitment (Amendment) Rules, 1986 insofar as they deal with promotions to the posts of Inspectors in the Income Tax Department.

Appointments to be post of Income Tax Inspectors is by direct requirement as well as by promotion of departmental candidates in the ratio of 1/3rd to 2/3rd. All the Group C officials in the ministerial cadre, namely, Supervisors Grade I and Grade II, Head Clerks, Tax Assistants and Upper Division Clerks are eligible for promotion. Similarly, the cadre of Stenographers is also eligible for appointment by promotion to the posts of Inspectors. All these persons, whether in the ministerial cadre or in the Stenographers' cadre have to qualify in the departmental examination for the post of Income tax Inspectors and should have put in the prescribed minimum years of service.

Prior to April 1960, for the purpose of promotion, the list of all departmental candidates who had passed the departmental examination was arranged according to their seniority irrespective of the date or year of passing the departmental examination. This list was submitted to the Departmental Promotion Committee for selection for promotion to the post of Income Tax Inspectors. This gave rise to some discontent, as young and junior persons who had qualified in the departmental examination earlier than their seniors, found themselves lower in the eligibility list. Therefore, the entire matter was reconsidered and in April 1960 it was decided that for the purpose of promotion to the grade of Inspectors, persons who had qualified in an earlier departmental examination should be treated en-bloc senior to those who qualified in a subsequent examination. This revised procedure also gave rise to discontent amongst

seniors who passed the departmental examination later. Therefore, taking all factors into account, the Government decided that there should be a fair balance between senior persons who qualify in the departmental examination at a later stage and junior persons who qualify in the same examination earlier. It was, therefore, decided that two lists should be drawn up of persons who pass the departmental examination. In the first list, the names should be arranged in accordance with seniority of the persons in the department provided they had passed the departmental examination and had put in the requisite years of service. In the second list, the names should be arranged in accordance with the date/year of passing the departmental examination. Both these lists would be forwarded to the Departmental Promotion Committee. Selection would be made from both the lists on a 50:50 basis. This decision was taken after taking into account the demands of both the categories of persons, namely, those who claimed that their seniority should not be overlooked, and those who claimed that their eligibility for promotion should depend upon the year of passing the departmental examination. Accordingly, orders to this effect were issued in November, 1960. This procedure for promotion of departmental candidates was embodied in the recruitment rules for the post of Inspectors which were issued in December 1969.

Subsequently, the Stenographers in the department represented that since they do not form part of the ministerial cadre, a separate quota should be provided for them for the purpose of promotion to the grade of Inspector. This representation was considered. In 1985 instructions were issued fixing the promotion quota between the ministerial cadre and the Stenographers' cadre in the ratio of 3:1. The Recruitment Rules for the post of Inspectors were accordingly amended in September, 1986. In respect of the Stenographers also, two lists were required to be prepared, namely, a list in the order of seniority of those Stenographers who had passed the departmental examination and a list of Stenographers arranged in accordance with the date and year of their passing the departmental examination. The same procedure for selection from both these lists in the ratio of 50:50 was to be adopted for promotion to the post of Inspectors in the quota which was kept for Stenographers.

This procedure of two lists was in force for more than three decades and had worked satisfactorily when the respondents challenged the preparation of two select lists for each cadre in the manner provided in the recruitment rules in the present proceedings. The challenge is on the ground that the preparation of two select lists is against fair play and natural justice and is irrational and violative of Articles 14 and 16. The Tribunal, in the impugned judgment and order, has described the procedure as difficult to understand, cumbersome and complicated. However, the procedure has been evolved over a period of time to meet the conflicting demands of two sets of persons, namely, those who are junior in the cadre but have qualified much earlier in the departmental examination and are, therefore, meritorious and eligible for promotion, and the more senior persons who have passed the departmental examination later. The procedure has been in operation for over three decades. Therefore, this cannot be a ground for setting it aside.

The other ground of challenge is that there is no rational basis on which this classification is made because both the lists consist of persons who have the requisite

eligibility. However, the whole purpose of preparing two lists is to give equal weightage to seniority from amongst eligible candidates and merit from amongst eligible candidates in the form of passing departmental examination much earlier. There is, therefore an intelligible criterion for distinguishing between the two lists. The object which is sought to be achieved by this differentiation is to give weightage to those departmental candidates who have shown merit by passing the departmental examination earlier than their seniors, while at the same time preserving the claim of the seniors who may have passed the departmental examination later for promotion on the strength of their seniority. The Tribunal, therefore, was not right in coming to the conclusion that there is no nexus between the formulation of the two lists and the object sought to be achieved. There is, therefore, no violation of Articles 14 and 16 in the present case.

The appeal is, therefore, allowed and the impugned order of the Tribunal is set aside and the application of the respondents before the Tribunal is dismissed. The cross appeal arising from S.L.P. (C) No. 7071 of 1993 is dismissed. There will, however, be no order as to costs.