
(2018) 12 CAT CK 0202
In the Central Administrative Tribunal
Case No : Original Application No. 772 Of 2014

Sandeep Malhotra

APPELLANT

Vs

Lt. Governor Of Delhi And Ors

RESPONDENT

Date of Decision : 09-12-2018

Acts Referred:

Delhi Police (Promotion And Confirmation) Rules, 1980 — Rule 17(ii), 19(ii)
Constitution Of India, 1950 — Article 14, 16, 309

Citation : (2018) 12 CAT CK 0202

Hon'ble Judges : Vijay Lakshmi, J; Pradeep Kumar, Member (A)

Bench : Division Bench

Advocate : M.K. Bhardwaj, Ravinder Aggarwal, Pradeep Kumar, Amit Yadav

Final Decision : Allowed

Judgement

Pradeep Kumar, Member (A)

1. Applicant was initially appointed as Sub Inspector/Machine Room Programmer (SI/MRP) and was deputed in the Computer Centre of Delhi Police on 20.03.1995 against a regular vacancy. He was granted out of turn promotion as Inspector on ad hoc basis on 19.03.1998 under Rule 19 (ii) of Delhi Police (Promotion and Confirmation) Rules, 1980. In the promotion order it was also mentioned that he will have no claim for seniority. He was subsequently reverted to the post of SI. Being aggrieved, he filed OA No.2658/2002 which was allowed by this Tribunal. This decision was challenged by respondents by filing a Writ Petition No.6172/2003 before Hon"ble High Court of Delhi. During pendency of this writ, the order of reversion was withdrawn subject to the decision in writ, and accordingly he was restored as Inspector. Thereafter, he was promoted as Inspector/EDP, Programme Assistant/Console Operator, on regular basis w.e.f. 07.12.2005 in terms of Rule 17 (ii) of Delhi Police (Promotion and Confirmation) Rules, 1980, otherwise known as Promotion List-F (Technical).

2. Next promotion lies to the post of ACP/Programmer. The relevant Recruitment

Rules (RRs) for this post indicated that for promotion following was the eligibility requirement:

"Inspector (EDP) with 3 years regular service in the grade."

This promotion was not granted. He filed OA No.1713/2013, which was decided on 28.05.2013. Operative para reads as under:

"6. We, therefore, dispose of the Application with the direction to the respondents to take decision on the representation of the applicant within eight weeks from the date of receipt of a certified copy of this order. In the event the representation of the applicant does not find favour, reasons are to be recorded and communicated to the applicant. However, if it is allowed, the respondents shall pass the consequential order in accordance with law expeditiously."

2.1. In compliance, respondents passed an order on 10.09.2013 which reads as under:

"This is with reference to your office letter No. 46499/CB-I/PHQ dated 29/7/2013 regarding promotion of Insprs. of Computer Cadre to the rank of ACP (Programmer). I am directed to inform that the representation of Sh. Sandeep Malhotra, Inspr. No. D-I/135, regarding grant of promotion to the post of ACP (Programmer) as per existing recruitment rules has been considered and rejected in view of comments of Delhi Police by Competent Authority, GNCT of Delhi."

2.2. The comments of Commissioner Delhi Police, referred above in this order, were earlier conveyed vide letter dated 29.07.2013 to the Additional Secretary (Home), Govt. of NCT of Delhi. These comments also referred to an affidavit filed by Delhi Police before the Tribunal while OA No.1713/2013 was being adjudicated. Following was specifically brought out in this letter:

"As per the existing Recruitment rules for the post of ACP/Programmer, only Inspector/EDP with 03 year of service in the grade is eligible in the feeder line. In these existing Recruitment Rules, there is no mention about the promotion of other Inspectors of Computer cadre. Since all the Inspectors of Computer Cadre are performing similar nature of duties in the Computer field, it was felt necessary to have a uniform procedure to grant equal opportunity in promotion. The matter for promotion of Inspector/Computer was examined and it was decided that comprehensive review of the R.R. is required. However, in the proposal for amendment in Recruitment Rules for the post of ACP/programmer in Delhi Police, Master Degree in Computer Application/Computer Science or M.Tech with specialization in computer from the recognized University was proposed. Accordingly a proposal for the common post of Inspector with the nomenclature of Inspector Computer was forwarded to the Govt. of NCT of Delhi in which the different Cadre in computer cadre such as Asstt. Programmer, Computer Operator and Inspr./EDP/Programme Asstt./Console Operator were merged. The said proposal has been accepted and with the approval of the Hon"ble L.G.,

Delhi, the relevant rules have been modified vide notification dated 9.1.2013. Now as per the revised RR, the nomenclature of all post of Inspectors in Computer Cadre has been modified/notified as Inspector Computer. Similarly the proposal for revision of existing Recruitment Rules for the post of ACP/Programmer was forwarded to the Govt. of NCT of Delhi vide this Hdqrs. letter dated 08.10.2002. In the revised RRs, the mode of filling up the post of ACP/programmer by way of promotion was proposed as Inspector/Computer with 03 year of service in the grade of the feeder line. The said revised RRs have also been approved by the Hon'ble Lt. Governor, Delhi and the Govt. of NCT of Delhi has forwarded the same to the Union Public Service Commission vide letter dated 26.4.2013 to accord the concurrence of the Commission.

The applicant has filed representations for the grant of promotion to the rank of ACP/Programmer. While the same was under consideration, the other senior Inspectors have also filed their representation for the grant of promotion to the rank of ACP on the basis of seniority. As is evident from the seniority position, the name of the applicant stands at S.No. 6. Now as per revised RR, Inspector/computer is eligible for further promotion to the rank of ACP/Programmer, the applicant is not entitled for the promotion to the rank of ACP/Programmer as his name stand at S.No. 6 of the seniority list. Once the RR are revised, the promotion will be made accordingly.

The seniority of Inspectors/Computer in Delhi Police is as under the same was also brought to the notice of Hon"ble Court in the above mentioned OA:-

S.No.

Name & No. of Inspector

Date of promotion as Inspector

1

Kuldeep Singh, D-I/131

25.03.1998

2

Shivaji Chauhan, D-I/132

25.03.1998

3

Hari Shankar, D-I/8

6.11.2002

4

Surender Kumar Bugra, D-I/896

24.07.2003

5

Om Prakash Srivastava, D-I/898

24.07.2003

6

Sandeep Malhotra, D-I/135

13.12.2005

7

Vijay Gehlawat, D-I/1364

17.08.2006

8

Nisha Dixit, D-I/365

17.08.2006"

(Emphasis supplied)

2.3. It was thus brought out that in Electronic Data Processing (EDP) Department, which is also a name used for computer centre, there were many Inspectors under many different designations, and their case for promotion to ACP (Programmer) could not be ignored, simply because RR for ACP (Programmer) mentioned feeder post as Inspector (EDP). The RRs for ACP (Programmer) were thus defective which needed correction before any promotion could be considered. Further, applicant was lower in seniority, much below other Inspectors who were also working in EDP centre though with a different designation.

3. Applicant is aggrieved with denial of promotion to ACP (Programmer) as per RRs as they existed, when he achieved eligibility after three years of service in December 2008 and preferred the instant OA. He sought relief to quash the letter dated 10.09.2013 (para 2.1 supra) and to consider him for promotion to ACP (Programmer). Other relief is also sought to direct respondent to hold yearwise DPC for this post. Interim relief has also been sought to restrain respondent from promoting any other officer as he claims that he is the only eligible candidate as per the said RRs.

4. Reliance has been placed on DOP&T OM's dated 14.12.2000 and 11.03.2011 which are to the effect to hold DPC regularly and in follow up even Delhi Police had issued directions in this regard.

4.1 In this regard, reliance has also been placed on a judgment by Hon"ble High Court of Delhi in WP (C) No.5549/2007 dated 28.02.2012 (Dr. Sahadeva Singh

vs. UOI), wherein the Hon"ble High Court had observed as under:

"15. We are unable to accept the contention that failure of the respondents to adhere to the Model Calendar suggested in the OMs dated 08.09.1998 and 13.10.1998, would not entitle an employee to seek directions for considering him for promotion as per the time schedule stipulated in the Model Calendar, even if there is no justification for not convening the DPC in terms of the Model Calendar. In our view, if the Department is able to justify the delay in convening the DPC as per the schedule laid down in the Model Calendar, an employee would not be entitled to seek a direction to consider him for promotion in terms of the time schedule stipulated in the Model Calendar. But, if there is no explanation given by the Department for not convening the DPC within the time stipulated in the Model Calendar or the explanation given by the Department is not found acceptable, there would be no justification for making the employees suffer merely on account of inaction or delay on the part of the Department for not convening the DPC and postpone his promotion till the DPC actually met. In our view, in such a case, an employee is entitled to approach the Tribunal or the Court, as the case may be, for a direction to the Department to convene DPC for the relevant vacancy year and in case he is eligible and falls in the zone of consideration, to consider him for promotion, in the year in which the vacancy against which he was eligible, arose. It is true that no employee has no vested right for promotion, but, the respondents cannot act arbitrarily and without any reasonable excuse defer the meeting of DPC and thereby deprive the employee of his legitimate expectations for being considered for promotion to a post to which he is eligible for being promoted. In such a case, the Tribunal or the Court, as the case may be, ought to step in and direct the respondents to convene DPC for the vacancy year and consider the petitioner if otherwise eligible and falling in the zone of consideration for promotion against the vacancies arise in the vacancy year. Any other view would negate the policy of the Government to prepare the Select List well in advance demoralize the employees and also result in the vacancies remaining unfilled without any reasonable excuse."

(Emphasis supplied)

4.2. It was thus pleaded that Tribunal may direct the respondents to hold DPC as per available RRs.

5. Towards this end, reliance has also been placed on the judgment by Hon"ble Apex Court in Y.V.Rangaiah vs. J.Sreenivasa Rao, [AIR 1983 SC 852] wherein the Court has also held:

"9. we have not the slightest doubt that the posts which fell vacant prior to the amended rules would be governed by the old rules and not by the new rules".

6. It was pleaded that as Inspector (EDP) applicant attained eligibility for the post of ACP (Programmer) on completion of three years regular service as of 13.12.2008 and as per Recruitment Rules applicable on that date, his case needs to be considered as he is the senior most Inspector (EDP).

7. Respondents opposed the OA. It is submitted that computerisation has developed over years and in stages and various Inspectors posted to Computer Cell which is also known as Electronic Data Processing (EDP) Cell, were given different designations e.g. Assistant Programmer, Computer Operator, EDP/Programmer, Assistant Console Operator etc. as things developed but they all do similar kind of work and cannot be ignored for further promotions.

8. It was further pleaded that there were three posts of ACP (Programmer) sanctioned for Crime, Railways and Traffic & Special Cell, but in absence of RRs, one post of ACP (Programmer) was lying vacant. The RRs were defective as only Inspector (EDP) was shown as eligible whereas other Inspectors were also doing similar work and they were also working in EDP Cell.

9. There were many Inspectors in EDP Cell who were senior to the applicant. However, they could not be ignored for consideration for the post of ACP (Programmer) and especially so as they were in EDP Cell and they were senior to applicant and all of them were doing similar work.

Accordingly, rationalization of designations of various Inspectors in EDP cell has also been started in 2002 and has now been completed with the approval of Hon"ble Lt. Governor of Delhi and Gazette Notification has also been issued on 09.01.2013 and all ten Inspectors in EDP Cell are now designated as Inspector (Computer) instead of different designations earlier.

10. The process to amend/correct the RRs for the post of ACP (Programmer) was undertaken since the year 1992 but could not be completed. In this regard, the amendment to RRs were prepared by Delhi Police and a letter with amended RR was also sent to Deputy Secretary (Home), Govt. of NCT of Delhi on 08.10.2002, seeking approval of the competent authority. This was approved but this needs approval by UPSC also. UPSC returned the RRs unapproved, vide their letter dated 23.08.2013 with certain observations as follows:

"It is observed that the Model recruitment Rules for Group "A" & Group "B" posts in Electronic Date Processing Unit, circulated by the DOP&T vide their O.M. dated 14th Oct, 1998, which the proposal is based upon, are age old and significant changes have already been taken place in the educational qualifications of Information Technology sector. In fact, a proposal for modification in the existing educational qualification, as prescribed in the Model RRs, is also under active consideration of the Government in which the consultation between the DOP&T and NIC is already on.

Under the above circumstances, the Commission has now decided that pending finalization of amendment in Model RRs no fresh proposal will be considered further under Single Window Mechanism. Accordingly, your proposal is returned herewith. It is requested that you may come up under Single Window System afresh along with your modified proposal after issuance of fresh Model Recruitment Rules for various Group "A" & Group "B" Posts in Electronic Data Processing Unit by the DOP&T."

The amended RRs have once again been prepared by Commissioner, Delhi Police (Respondent No.4) and sent vide letter dated 11.06.2019 to Secretary (Home), GNCTD (Respondent No.3) for approval of competent authority. Once cleared by respondent No.3, it will again need to be sent to UPSC. Therefore, the process to amend the RRs has still not been finalized.

11. Respondents pleaded that promotion can be considered only in reference to RRs whereas existing RR was defective and was discriminatory to senior Inspectors who were doing similar work and thus was treated as faulty and it needed correction which are also already underway since 1992. This RR, as it existed, was never put into operation. For managing work, respondent had to take recourse to ad hoc promotion. Accordingly, the instant OA is without merit.

12. Matter has been heard. Sh. M.K. Bhardwaj, learned counsel represented the applicant and Sh. Ravinder Aggarwal, Sh. Pradeep Kumar and Sh. Amit Yadav, learned counsel represented the respondents.

13. In respect of promotion, the employees cannot claim promotion as a matter of right. They can only claim to be considered and this should be without discrimination.

14. Further, in the instant case, RR for the post of ACP (Programmer), was defective and it is evident that same is under correction at least since 2002. The correction involves certain processing in various offices including UPSC. Amended RR was sent to UPSC also who have still not approved it.

Directions to amend this very RR were passed by Tribunal also in OA No.3547/2010 vide orders dated 18.04.2011, when two officers who were promoted as ad-hoc ACP (Programmer) had approached the Tribunal. Tribunal had ordered as under:

"4. The stand taken by the Respondents is most unjust. The Applicants cannot just remain in a post on ad hoc basis for 15 years without any heed being paid to their plight by the Respondents. We, therefore, direct the Respondent, Ministry of Home Affairs, and the GNCTD to notify the recruitment rules for the post of ACP (Programmer) within three months of the receipt of a certified copy of this order by taking suitable care that the Applicants have to be regularised within reasonable time of their promotion in 1996, that is, within one or at most two years of their promotion, if a period of probation of one/two year(s) is provided. The OA is disposed of with these directions and with liberty to the Applicants to file a fresh OA for other grievances. Since the Respondents have dragged the Applicants into litigation because of their own lethargy, each of the Applicant would be eligible for the cost of litigation, which we compute to Rs. 10,000 each."

15. The issue of the same very RR for the post of ACP (programmer) had come up under adjudication in another OA No.2048/2014 (Kuldeep Singh Dhull vs. Commissioner of Police). Sh. Kuldeep Singh was appointed as Sub-Inspector (Input/Output Assistant) in the year 1991 and he was promoted on regular basis

as Inspector on 25.03.1998. His name appears at Sl. No.1 of the table in para 2.2 supra. He approached the Tribunal seeking the following relief:

"(a) direct the respondents to immediately finalise the Recruitment Rules for the post of Assistant Commissioner of Police (IT) or (Programmer) (as they may ultimately wish to call), in Computer Wing of Delhi, pending since the year 2002 and

(b) consider and promote the applicant to the said post forthwith w.e.f. the date, he completes the eligibility length of service as would be required under the rules."

16. In this regard, Hon"ble High Court of Delhi in Union of India vs. D.P.Singh, LPA No.726/2012 decided on 21.11.2016 had adjudicated the matter relating to DPC and RRs etc. In the course of said adjudication certain judgments of Hon"ble Apex Court were also relied upon. The observations made by Hon"ble High Court are reproduced below:

"12. The legal issue before us, which is rather narrow and limited, has to be answered in the aforesaid backdrop. The first question is whether in the given facts the respondent-employees have a vested right to be considered for time-bound promotion on completion of the requisite period under the old bye-laws. The second question, which would arise, is whether the appellant No.2 Council could have amended and modified the bye-laws i.e. terms of service and made the same applicable to the existing employees.

13. We would first take up the legal issue pertaining to the amendment of the Bye-Laws. It is always open to an employer to adopt a new policy to fix, change or alter the conditions of service of the employees. An employer would be acting within his right in doing so. Conditions of service, for this purpose, would include promotion and seniority. An employee cannot claim a vested right or static applicability of the conditions of service which were in existence when he had joined the service. The power to amend or change the conditions of service is subject to the provisions of the Constitution and the amendment or change cannot offend Articles 14 and 16 and the Fundamental Rights guaranteed by the Constitution, or be arbitrary, unreasonable or otherwise objectionable on account of being contrary to any applicable statute. In the present case, the respondents have not questioned the amendment of the bye-laws or contended that the same are arbitrary or invalid. The impugned judgment also does not record any finding to this effect. The contention of the respondents, which has been accepted by the impugned judgment, is that the appellant No.2 Council could not have changed the rules or conditions of service to the perceived detriment of the respondents after they had joined and were appointed in the service of the appellant No.2 Council. This precept which is a foundation of the impugned judgment is unacceptable and contrary to law. The new bye-laws have to be assessed and analysed on merits, and not on the basis of the old rule position.

14. We now turn to the first issue. An amendment to the service conditions

normally operates prospectively, unless it is made retrospective by express provision or necessary intendment. Retrospectivity is not to be inferred by way of surmises and conjectures. Retrospective amendment taking away the benefits already acquired under the old service conditions can be challenged under Articles 14 and 16 of the Constitution, as being arbitrary and unconstitutional. Lastly, an employee cannot claim a vested right to promotion. He has a right to be considered for promotion. When a chance of promotion is affected, it does not mean denial of consideration, for the employee is considered for promotion under the new rules. Mere chance of promotion is not a condition of service.

15. Relevant judgments on the aforesaid dictums have been referred to and examined below.

16. Keeping the aforesaid dictums as the basis, we now examine the question whether the respondents-employees had acquired a vested right under the old bye-laws after they had completed the requisite years of service to be eligible for time-bound promotion under the old bye-laws. This, we would observe, is key to the present determination and judgment. In our opinion, the question regarding whether or not any vested rights had accrued to the respondents to be considered for and granted promotion under the old Bye-Laws, is to be answered in favour of the appellant No.2. We would elucidate and give our reasons for the same, which are primarily predicated on the findings pertaining to the first and second legal issues.

17. Learned counsel for the appellants had relied on *State of Punjab and Others Vs. Arun Kumar Aggarwal and Others*, (2007) 10 SCC 402 wherein the Supreme Court had examined the question whether the old 1941 Rules or the 2004 Rules effective from 9th July, 2004 should be applied to the vacancies, which had arisen during the year 2000-01 for promotion to the post of SDO (Irrigation Department) in the State of Punjab. Under the old Rules, there was no provision for quota in promotion for diploma holders. However, there was a provision for grant of relaxation to diploma holders with outstanding merit. Under the 2004 Rules, the diploma holders were entitled to 25% posts out of 40% promotional quota. The Supreme

Court noticed that DPCs for diploma holders with outstanding merit fixed on different dates in 2001 and 2002, were not held as the Government was aware and had in mind that the new Rules of 2004 would be made applicable. A conscious decision was taken not to conduct the DPCs for promotion to the post of SDO till the new recruitment rules were enforced. The Supreme Court, answering the questions raised, had held:-

"30. There is no quarrel over the proposition of law that normal rule is that the vacancy prior to the new Rules would be governed by the old Rules and not by the new Rules. However, in the present case, we have already held that the Government has taken conscious decision not to fill the vacancy under the old Rules and that such decision has been validly taken keeping in view the facts and

circumstances of the case.

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32. He has also referred to B.L. Gupta v. MCD [(1998) 9 SCC 223 : 1998 SCC (L&S) 532], SCC at p. 226, para 9:

"9. When the statutory rules had been framed in 1978, the vacancies had to be filled only according to the said Rules. The Rules of 1995 have been held to be prospective by the High Court and in our opinion this was the correct conclusion. This being so, the question which arises is whether the vacancies which had arisen earlier than 1995 can be filled as per the 1995 Rules. Our attention has been drawn by Mr Mehta to a decision of this Court in N.T. Devin Katti v. Karnataka Public Service Commission [(1990) 3 SCC 157 : 1990 SCC (L&S) 446 : (1990) 14 ATC 688] . In that case after referring to the earlier decisions in Y.V. Rangaiah v. J. Sreenivasa Rao [(1983) 3 SCC 284 : 1983 SCC (L&S) 382] , P. Ganeshwar Rao v. State of A.P. [1988 Supp SCC 740 : 1989 SCC (L&S) 123 : (1988) 8 ATC 957] and A.A. Calton v. Director of Education[(1983) 3 SCC 33 : 1983 SCC (L&S) 356] it was held by this Court that the vacancies which had occurred prior to the amendment of the Rules would be governed by the old Rules and not by the amended Rules. Though the High Court has referred to these judgments, but for the reasons which are not easily decipherable its applicability was only restricted to 79 and not 171 vacancies, which admittedly existed."

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38. We hold that the Government has taken a conscious decision not to fill up the posts under the old 1941 Rules. The impugned order of the High Court is set aside.....

(emphasis supplied)"

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20. Before referring to other judgments, we would like to reiterate that the new bye-laws relating to promotions are in consonance with the Government of India Rules. Their constitutional validity is not challenged. Secondly, a conscious and a well-considered decision was taken not to grant time bound promotions after 2004 under the old bye-laws and it was decided that promotions would be made in terms of the new bye-laws, once the same were notified and brought into effect....."

(Emphasis supplied)

The ratio of Y.V.Rangaiah (para 5 supra) has subsequently been distinguished by Hon"ble Apex Court for such cases where a conscious decision is taken to amend RR and thus not to hold RR till the process of amending RR is completed (para 16 supra).

17. Accordingly, in the instant case, the situation turns out to be akin to conscious decision on the part of respondents not to make promotion as per the RR issued on 25.09.1980.

Reason for this inference is recourse was taken for ad-hoc promotion (para 14 supra) and action to modify RR was initiated long back (para 10 supra) and detailed comments by respondents in para 2.2 supra.

18. The relied upon judgment in Dr. Sahadeva Singh (para 4.1 supra), is of no help to applicant as instant case is one where respondents are not inactive and instead they had identified that RR is faulty and initiated corrective action to modify the RR. The delay in holding DPC is, though avoidable, but still is for legitimate reasons. The Hon"ble

High Court had themselves also observed in same para 15 of their judgment that "In our view, if the Department is able to justify the delay in convening the DPC as per the schedule laid down in the Model Calendar, an employee would not be entitled to seek a direction to consider him for promotion in terms of the time schedule stipulated in the Model Calendar."

In this regard, the ratio of judgment by Hon"ble High Court of Delhi in D.P.Singh which in turn relied on Apex Court judgments (para 16 supra) is attracted and non-holding of DPC is taken to be for valid reasons, i.e. correction to RR which is underway.

19. The applicant has also relied upon judgment of Hon"ble Apex Court in Vimal Kumari vs. State of Haryana delivered on 04.02.1998 in CA No.4721/1996 wherein Court held that:

"7. In the instant case, as pointed out above, the Draft Rules were prepared in 1983. They have been lying in the nascent state since then. In the meantime, many promotions, including that of the appellant were made on the basis of 'seniority' which, in the absence of any Rule made under Article 309, could be legally adopted as the criteria for making promotion on the post of Superintendent could not have been displaced by the Draft Rules and the High Court could not have invoked any provision of those Draft Rules which had been lying frozen at their embryonic stage for more than ten years."

Applicant had pleaded that in the ratio of this judgment, his seniority cannot be depressed with other Inspectors on the reasoning that RR is being modified to include all Inspectors of EDP Cell.

This reasoning is fallacious as the said RR was faulty to start with and it was not put into operation at any stage and it is under correction. The fault in said RR is also apparent from the way the designation of feeder post was defined as "Inspector/EDP" whereas there was no such designation actually in operation having exact match.

The applicant's designation as per his ad hoc promotion on 19.03.1998 reads -

Inspector/EDP (Programme Assistant/Console Operator) and as per his regular promotion on 15.12.2005, it reads Inspector/EDP Programme Assistant/Console Operator. It was thus different than Inspector/EDP defined in the old RR being relied on by applicant.

20. Further, the designation of all Inspectors since 09.01.2013, is now Inspector (Computer) only. The designation of feeder category as defined in amended RR is Inspector (Computer) which does not exist in old RR.

21. Thus the Tribunal is in respectful agreement with the view held in OA No.3547/2010 (para 14 supra) and is of the view that RR for the post of ACP (Programmer) is defective and respondents had undertaken action to correct and finalise the same. This process needs to be completed expeditiously. Accordingly, the existing RR cannot be taken to be the basis to consider promotions.

Therefore, the relief sought in this OA to consider promotion as per old RRs, as well as the prayer not to promote anyone else, is not maintainable. Reason is that even in absence of RRs, the departments need to carry on work and make alternative arrangements and the departmental working cannot be restrained.

22. Tribunal also notes with serious concern that process of amendment to RRs for the post of ACP (Programmer) which was initiated in the year 2002 has yet not reached finality. And this is so despite orders dated 18.04.2011 by Tribunal in OA No.3547/2010 (para-14 supra). Such a state of affairs is not acceptable. Employees should not be made to wait for decades for consideration of their promotion and that too for want of RRs for the higher post and especially as the post is vacant.

23. In view of foregoing, respondents no.3 & 4 are individually and severally directed to complete the process of amendment to the RRs within a period of three months of receipt of a certified copy of this order and circulate it for information of all concerned. The Respondent No.3 & 4 shall impress with UPSC also with the time frame as per these orders.

Once RRs are finalized, the respondents shall consider the case of all eligible officers, including the applicant, as per rules in force for promotion to the post of ACP (Programmer), in three months thereafter.

The applicant shall have liberty to approach the Tribunal, if he has a subsisting grievance, in respect of compliance of this order which is to be complied with in two stages as above. No costs.