

*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ WP(C) 5367/2014 & CM No.10688/2014

Reserved on : 31st May, 2016
Pronounced on : 29th July, 2016

SHWETA BANSAL

..... Petitioner

Through: **Mr. Rajshekhar Rao & Ms. Zehra
Khan, Advocates**

versus

UNION OF INDIA & ORS.

..... Respondents

Through : **Mr. Anil Soni, CGSC for
respondent No.1
Ms. Joymoti Mize, Advocate for
respondent No.2**

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE NAJMI WAZIRI

SANJIV KHANNA, J.

1. The present litigation is a chronicle of Ms. Shweta Bansal's perseverance and determination.
2. Ms. Shweta Bansal, hereinafter referred to as the petitioner, by this writ petition impugns the order dated 1st May, 2014 passed by the Principal Bench, Central Administrative Tribunal, New Delhi (the tribunal, for short) in OA No.3062/2013.
3. The petitioner, a differently-abled candidate with locomotor disability, invokes and relies on the provisions of The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 ('Disabilities Act'). She had appeared in the Civil

Services Examination, 2012 ('CSE 2012'). Having secured 769th position or rank in the order of merit, the petitioner was one of the selectees in the list of 998 candidates recommended for appointment to the Indian Administrative Service ('IAS'), Indian Foreign Service ('IFS'), Indian Police Service ('IPS') and other Central Services (Group A and B). This list included 457 general candidates and 53 physically challenged candidates. However, when the final allocation of services was made, the petitioner was not allocated any service and her name was missing from the list. The reason given by the respondents was that the petitioner had opted for only 8 services out of 24 in her application form for the CSE-2012 and she could not be selected in the said services as an open category candidate or as a physically challenged candidate.

4. Aggrieved, the petitioner had approached the tribunal vide aforesaid OA No. 3062/2012, with the following prayers:-

“a) Direct the respondents to allot the applicant Indian Administrative Service or Indian Foreign Service. Alternatively, allow the applicant to choose a service of her preference from the complete list of service in CSE 2012 in lieu of the services which had been opted by the applicant in the detailed application form but no vacancy is available for the applicant therein.

b) Pass any other order or direction that this Hon'ble Tribunal may deem it fit and necessary in the facts and circumstances of the present case and in the interest of justice and equity.”

5. Before the Tribunal, the respondents, in contrast to their earlier stand, had averred that the Ministry of Defence had been asked to grant

relaxation in the case of the petitioner and further action would be taken on receipt of their reply. The respondents professed that they would be happy to accommodate the petitioner provided the Ministry of Defence would agree to accommodate her in the cadre of the Armed Forces Headquarter Service.

6. The petitioner dissented and protested, as she did not want to join the Armed Forces Headquarter Service. She has reiterated the said stance and position before us.

7. The impugned order passed by the Tribunal after referring to several facets, including the fact that the IFS was included and identified as an eligible service for persons with locomotor disability, has given the following directions:

“We, therefore, dispose of this Original Application with the following directives:-

(i) The applicant may be allowed to choose from any of the services in which unfilled vacancies exist in respect of CSE-2012 for the OL category in lieu of IFS where the applicant has suffered on account of ambivalence of the applicant and not in respect of the other t here services where the applicant has not been careful enough in filling up the form.

(ii) This order should be implemented within a period of three months from the date of receipt of a certified copy of this order.

(iii) There shall be no order as to costs.”

8. The petitioner is not satisfied and has pressed that she was entitled to allotment of a post in either IAS or IFS.

9. The Disabilities Act, under Section 33, provides for reservation of 3% posts for persons or class of persons with disability, of which 1% is to

be reserved for persons suffering from (i) blindness or low vision; (ii) hearing impairment and (iii) locomotor disability or cerebral palsy in the posts identified for each disability. The aforesaid provisions under the Disabilities Act are horizontal reservations made in exercise of powers under Clause (1) of Article 16 of the Constitution of India. Horizontal reservations cut across vertical reservations and its nature is sometimes described as interlocking reservations. A candidate selected against disability quota is placed in their appropriate quota, i.e. a Scheduled Caste, Scheduled Tribe and Other Backward Caste and a General Category candidate is placed in the open category by making necessary adjustments. Thus, even after giving effect to the horizontal reservation, the percentage of reservation meant for vertical categories remains the same. In **Anil Kumar Gupta v. State of U.P., (1995) 5 SCC 173**, it was held that if the quota fixed for horizontal reservation is already satisfied, no question arises, but if the quota is not satisfied, requisite number of special reservation candidates (i.e. differently abled candidates) shall have to be taken and adjusted against the respective social reservation categories by deleting the corresponding number of candidates therefrom [see also **Rajesh Kumar Daria v. Rajasthan Public Service Commission, (2007) 8 SCC 785**].

10. In **Union of India and Anr. v. National Federation of the Blind and Ors., (2013) 10 SCC 772**, after an extensive examination of the relevant provisions of the Disabilities Act and the roster system, including the circulars issued by the government, the Supreme Court struck down OM dated 29th December, 2005 as unacceptable and contrary to the mandate of Section 33 of the Disabilities Act. The Supreme Court

categorically rejected the stand of the Union of India that the Disabilities Act provides for only 3% reservation in the vacancies in the posts identified for disabled persons and not the total cadre strength of the establishment. In a nutshell, it was held that Section 32 of the Disabilities Act is not a pre-condition for computation of reservation of 3% under Section 33 of the Disabilities Act. Rather, Section 32 is to follow the effect of Section 33. This apart, the Supreme Court declared that the intention of the Legislature, viz., reservation of 3% for disabled persons has to be computed on the basis of the total vacancies in the strength of the cadre and not on the basis of the vacancies available in the identified posts. The minimum level of representation of persons with disabilities is provided in the very first part of Section 33 of the Disabilities Act, and the second part of Section 33 only relates to distribution of 3% posts in three different categories. Therefore, of a minimum of 3% vacancies of posts in the establishment, 1% each has to be given to three categories, i.e., i) blindness or low vision; (ii) hearing impairment and (iii) locomotor disability or cerebral palsy. This interpretation is a concomitant of the proviso to Section 33, and Section 41 of the Disabilities Act. It was accordingly held :-

“38. To illustrate, if there are 100 vacancies of 100 posts in an establishment, the establishment concerned will have to reserve a minimum of 3% for persons with disabilities out of which at least 1% has to be reserved separately for each of the following disabilities: persons suffering from blindness or low vision, persons suffering from hearing impairment and the persons suffering from locomotor disability or cerebral palsy. Appointment of 1 blind person against 1 vacancy reserved for him/her will be made against a vacancy in an identified post for instance, the post of peon, which is identified for him in Group D.

Similarly, one hearing impaired will be appointed against one reserved vacancy for that category in the post of Store Attendant in Group D post. Likewise, one person suffering from locomotor disability or cerebral palsy will be appointed against the post of “Farash”, Group D post identified for that category of disability. It was argued on behalf of the Union of India with reference to the post of driver that since the said post is not suitable to be manned by a person suffering from blindness, the above interpretation of the section would be against the administrative exigencies. Such an argument is wholly misconceived. A given post may not be identified as suitable for one category of disability, the same could be identified as suitable for another category or categories of disability entitled to the benefit of reservation. In fact, the second part of the section has clarified this situation by providing that the number of vacancies equivalent to 1% for each of the aforementioned three categories will be filled up by the respective category by using vacancies in identified posts for each of them for the purposes of appointment.”

The said judgment in ***National Federation of the Blind*** (supra) dated 8th October, 2013, was pronounced after the Notification for CSE-2012 examination was published on 4th February, 2012 but before the list of vacancies in different services was published.

11. The Notification dated 4th February, 2012 was for filling-up vacancies in 24 different services. The candidates were required to mention his/her preferences for the service for which he/she would like to be considered for appointment. No change in the preferences of services once stated would be permitted. Candidates were specifically advised to be careful while indicating preferences for various services/posts and were to itemize all the services/posts in the order of preferences in his/her application form. It was stipulated that if a candidate did not indicate

preference for any service/post, it would be assumed that he had no specific preference. No candidate would be allocated a service/post not indicated as a preference. Such candidates would be allotted the remaining/residual service/post after allocation to the candidates who were allotted services/posts in accordance with their preference.

12. The aforesaid Notification dated 4th February, 2012 neither indicated nor specified the actual number of vacancies in each service or the posts/vacancies reserved in each service for disabled candidates. As in the case of SC, ST and OBC candidates, for horizontal reservation under the Disabilities Act, it was stated that the reservation would be made for candidates in respect of vacancies fixed by the government. However, in the case of Disabled candidates entitled to horizontal reservation there would be differences primarily for the reason that the reservation was 1% for each of the three categories. Further, paragraph 22 of the aforesaid Notification had notified that eligibility for availing reservation would be as specified in the Disabilities Act, and further that such candidate should also satisfy the functional classification or abilities/disabilities stipulation consistent with the requirement of the identified service post. A list of services identified as suitable for the physical disability category along with the physical requirements and functional classifications was enclosed as Annexure-IV.

13. Annexure-IV had listed 17 different services and the eligible disability categories, i.e., i) locomotor disability; ii) visual impairment and (iii) hearing impairment. The functional classification and physical requirements were specified in two separate columns. It was specified that candidates from the three categories, i.e., i) locomotor disability; ii) visual

impairment and (iii) hearing impairment were eligible for IFS. Lest there be any confusion or debate, we would like to reproduce verbatim Annexure-IV to the said Notification, which reads as under:

“

Sl.No .	Name of the Service	Category(ies) for which identified	Functional Classification	Physical requirements
1.	Indian Administrative Service	(i)Locomotor or disability (ii) Visual impairment (iii) Hearing impairment	BA,OL,OA,BH,MW LB PD	S,ST,W,SE,H,RWT F,PP,L,KC,B,ST,W,H,RWT F,PP,L,KC,B,ST,W,SE,RWT
2.	Indian Foreign Service	(i)Locomotor or disability (ii) Visual impairment (iii) Hearing impairment	OA,OL,OAL LV HH	S,ST,W,RW,C,MF,SE
3.	Indian Revenue Service (Customs and Central Excise Gr. A)	(i)Locomotor or disability (ii) Hearing	OL,OA HH	S,ST,W,BN,L,SE,ME RW,H,C
4.	Indian P and T Accounts and Finance Service Gr.A	(i)Locomotor or disability (ii) Visual impairment (iii) Hearing impairment	OA,OL,OAL,BL LV HH	S,W,SE,RW,C
5.	Indian Audit and Accounts	(i)Locomotor or disability	OA,OL,OAL	S,ST,W,BN,SE,RW,H,C

	Service, Gr. A	(ii) Visual impairment (iii) Hearing impairment	LV HH	
6.	Indian Defence Accounts Services, Gr.A	(i)Locomot or disability (ii) Visual impairment (iii) Hearing impairment	OA,OL, OAL,BL LV HH	S,ST,W,BN,SE,RW,H,C
7.	Indian Revenue Service (IT) Gr.A	(i)Locomot or disability (ii) Hearing impairment	OA,OL,OAL,BL HH	S,ST,W,SE,RW,C
8.	Indian Ordnance Factories Service, Gr.A	(i)Locomot or disability (ii) Visual impairment (iii) Hearing impairment	OA,OL,OAL LV HH	S,ST,W,BN,RW,SE,H,C
9.	Indian Postal Service, Gr.A	(i)Locomot or disability (ii) Visual impairment (iii) Hearing impairment	OA,OL,OAL,BL B,LV HH	S,ST,W,BN,RW,SE,H,C
10.	Indian Civil Accounts Services, Gr.A	(i)Locomot or disability (ii) Visual impairment (iii) Hearing impairment	OA,OL,OAL,BL LV HH	S,ST,W,SE,RW,H,C
11.	Indian Railway	(i)Locomot or disability	OA,OL,OAL,BL	S,ST,W,SE,RW,H,C

	Accounts Services, Gr.A	(ii) Visual impairment (iii) Hearing impairment	LV HH	
12.	Indian Railway Personnel Service, Gr.A	(i)Locomot or disability (ii) Visual impairment (iii) Hearing impairment	OA,OL B,LV HH	S,ST,W,BN,SE,RW,H,C
13.	Indian Railways Traffic Service, Gr.A	(i)Locomot or disability	OA,OL	S,ST,W,SE,RW,H,C
14.	Indian Defence Estates Service, Gr.A	(i)Locomot or disability (ii) Blindness or Low Vision (iii) Hearing impairment	OA,OL LV HH	S,ST,W,BN,MF,PP,KC SE,RW,H,C
15.	Indian Information Service Gr.A	(i)Locomot or disability (ii) Visual impairment (iii) Hearing impairment	OA,OL,OAL,BL B,LV HH	S,ST,W,SE,RW,H,C
16.	Indian Trade Service, Gr.A (Gr.III)	(i)Locomot or disability (ii) Visual impairment (iii) Hearing impairment	OA,OL,OAL,BL LV HH	S,ST,W,BN,MF,SE, RW,H,C
17.	Indian	(i)Locomot	OA,OL,OAL,BL	ST,RW,SE,S,B,H

	Corporate Law Services	or disability (ii) Visual impairment (iii) Hearing impairment	LV HH	
18.	Armed Forces Headquarters Civil Service, Gr. B (Section Officers' Grade)	(i) Locomot or disability (ii) Visual impairment (iii) Hearing impairment	OA, OL LV HH	S,ST,W,BN,MF,SE,RW,C
19.	Delhi, Andaman and Nicobar Islands, Lakshadweep, Daman and Diu and Dadra and Nagar Haveli Civil Service, Gr.B	(i) Locomot or disability (ii) Visual impairment (iii) Hearing impairment	OA, OL LV HH	S,ST,W,SE,RW,MF,H,C, SE,R,W,H,C
20.	Delhi, Andaman and Nicobar Islands, Lakshadweep, Daman and Diu and Dadra and Nagar Haveli Police Service, Gr.B	(i) Locomot or disability (ii) Hearing impairment	OL HH	S,ST,W,BN,PP,KC,MF SE,R,W,H,C
21.	Pondicherry Civil Service (Group B)	(i) Locomot or disability (ii) Visual impairment (iii) Hearing impairment	OA,OL,OAL,BL, LV LV HH	S,ST,W,SE,RW,HC

Categories of Disabled OH Orthopaedically Handicapped
 VH Visually Handicapped
 HH Hearing Handicapped

Sub-categories BL Both Legs
 BA Both Arms
 OL One Leg
 OA One Arm
 OAL One Arm and One Leg
 MW Muscular Weakness
 B Blind
 LV Low Vision
 H Hearing

Physical Requirement MF Manipulation by fingers
 PP Pulling and pushing
 L Lifting
 KC Kneeling and Crouching
 BN Bending
 S Sitting (on bench or chair)
 ST Standing
 W Walking
 SE Seeing
 H Hearing/Speaking
 RW Reading or Writing
 C Communication”

14. The petitioner while filling up her form, had given the following order of preference:

Name of services/post	Order of preference
Indian Administrative Service	1
Indian Foreign Service	2
Indian Revenue Service (IT) Group 'A'	3
Indian Defence Accounts Service Group 'A'	4
Indian Revenue Service	5

(Customs & Excise) Group A	
Indian P&T Accounts Service Group A	6
Post of Assistant Security Commissioner in Railway Protection Force	7
Indian Corporate Law Services Group A	8

Thus, the petitioner in her form had indicated the order of preference for the services. The services mentioned by the petitioner were as per services mentioned in Annexure- IV, for which locomotor disability candidates were eligible, and would fall in the horizontal reservation. However, she was not aware of the vacancies or number of posts, if any, reserved for locomotor disability candidates in each service notified in Annexure IV. In other words, at that time, neither the petitioner nor the respondents were aware of the vacancies or posts which would be covered by horizontal reservation meant for candidates with locomotor disability. These details and particulars were notified subsequently in the year 2013. The petitioner, like others, was not allowed to change her preferences or order of preferences after the list of posts covered under horizontal reservation were notified in 2013.

15. The petitioner, while filling-up her form had sought the benefit of horizontal reservation. However, in the absence of specific details, the petitioner could not have taken an informed decision and choice. Her position was like that of a person who was asked to exercise choice impulsively, as if she was a participant in a game of roulette in which a stroke of luck or misfortune would be determinative. It was stated that there were administrative difficulties and thus the details and

vacancy/reservation for disabled candidates could not be given. We are informed that today the position is different and relevant data and particulars are mentioned to enable a candidate to make an informed and considered choice. Be that as it may, the narration reflects the handicap and constraint faced by the petitioner in taking an informed and considered decision with respect to choice of service. The reservation under the Disabilities Act being 1% in each category, there were in fact no reserved posts/vacancies in some of the services mentioned in Annexure IV.

16. The petitioner could not qualify for any of the services or posts mentioned in her order of preferences, for there was no reservation for persons with locomotor disability in the IFS, or the Indian Audit and Accounts Service. The persons with locomotor disability having ranks 40 and 364 were appointed to the IAS and those with ranks 439 and 486 were appointed to the Indian Revenue Service (Income Tax). Those with ranks 516 and 535 were appointed to the Indian Revenue Service (Customs and Excise). One person with locomotor disability, ranked 729 was appointed to the Indian Post and Accounts Service. The petitioner, as noted above, was 769 in the order of merit. It is in the aforesaid factual position that the Tribunal, in the impugned order, had passed and given the aforesaid directions.

17. During the pendency of the present petition, the petitioner had explained her position and interacted with officers from the Department of Personnel & Training. This was also an opportunity for the respondents to explain their position and if possible, find a solution to the impasse.

However, no acceptable and agreeable solution or agreement could be reached.

18. In our order dated 17th May, 2016 the factual position was noted and the respondents were asked to furnish a reply to five queries. The said queries have been duly answered. In order to decide the present writ petition, we would like to reproduce query 3.b and the reply of the respondents to the same:

“Query 3.b: Why no post in the Indian Foreign Service were reserved for those with Locomotive Disability. It will be examined whether any reserved unfilled post was carried forward. Roster’s position will be examined and stated.

Reply: As per the roster received by this respondent, vide letter dated 23.12.2015 and produced before this Hon’ble Court in WP(C) No.6036/2015 titled Sambhavana v. UOI & Ors., for CSE-2012, one PH vacancy of Orthopedically Handicapped/Locomotor Disability earmarked. Against the said post, Shri F A Khan was allocated to IFS through CSE-2013. In CSE-2012, one vacancy reserved for CSE-2007 of Hearing Impaired candidate was filled by allocating IFS to Shri Shubham Singh through CSE-2012.”

The petitioner had given her second preference to the IFS. The IFS was included in Annexure IV, for candidates with locomotor disability. However, no candidate with locomotor disability was appointed to the IFS. Query 3.b was, why no post in the IFS was reserved for those with locomotive disability. The respondents were also asked to examine whether any reserved unfilled post in the IFS was carried forward. The roster position would be examined and stated. The respondents, in reply, have accepted that a vacant reserved post in IFS for Orthopedically Handicapped/Locomotor Disability should have been included in CSE-2012. Thus, the respondents have accepted the error

and mistake in not including the reserved locomotor disability post/vacancy in the list of vacancies which should have been filled up from the selectee candidates of the CSE 2012. The respondents however plead that another person was appointed against the said post earmarked for locomotor disability, in CSE-2013. This would be contrary to Section 36 of the Disabilities Act, which mandates that unfilled vacancies should be included in the next recruitment. This was also contrary to the decision of the Supreme Court in *National Federation of the Blind and Ors.* (supra) for there was failure to compute vacant reserved posts for those with locomotor disability.

19. Consequently, for the lapse and slipup of the respondents, the vacant post earmarked for Orthopedically Handicapped/Locomotor Disability, which should have been included in the list of notified vacancies for CSE-2012, was not included. The petitioner cannot and should not undergo lifelong anguish and grief for this omission of the respondents. The petitioner was certainly entitled for appointment for she had qualified for the said reserved post in the IFS Cadre as per her ranking. The fact that another candidate was allocated and appointed to this post in CSE-2013, cannot be a good ground and reason to deny the petitioner her right to be appointed for failure and fault in allocation for CSE-2012. Once the respondents had learnt about the said error and lapse, they should have immediately offered the said post to the petitioner. Had the said fact come to the notice of the Tribunal, we do believe the final outcome and direction given by the Tribunal would have been different.

20. The statutory provisions of the Disabilities Act encompasses and legalises the much needed and necessary support to a differently-abled person. This legislative scheme empowers such persons to compete with others in equal measure. The petitioner, Ms. Shweta Bansal, had a right to be considered, and allocated the vacant post reserved for a person with locomotor disability/orthopaedic handicap. She is legally entitled to the vacant post and justifiably so. She shall therefore be granted that vacant post and consequently redeem her aspiration.

21. We are also conscious and aware that the factual matrix being peculiar cannot be compared with others. In fact, we are not as such applying the mandate of the Supreme Court in *National Federation of the Blind and Ors.* (supra), which states that horizontal reservation would be with reference to vacancies in the establishment. To apply the said dictum with reference to a particular point in time may have its own consequences. However, once the respondents themselves have identified and accepted that one vacant post in the IFS should have been allocated to a physically disabled person belonging to locomotor disability in CSE-2012, the petitioner must succeed.

22. Before we give our final directions, we would like to examine another contention raised by the respondents, which was raised and rejected by the Tribunal, relying upon their earlier order in the case of *N. Manjushree (Ms) v. Union of India & Ors.* in OA No.353/2010 decided on 3rd June, 2011. We have quoted above Annexure-IV to the CSE-2012 and notice the conditions mentioned under the heading “functional classification” and “physical requirements.” The contention of the respondents was that under the column “functional classification”, persons

with one leg disability were eligible to be appointed to the IFS and those with two legs' disability were ineligible. The basis and foundation of the said criteria/condition is inexplicable and incomprehensible. We are informed that this condition has since been deleted and is no longer applicable. Factually also, the petitioner is not disqualified as per the said requirement. Along with the application form, the petitioner had submitted the certificate dated 26-27th June, 2012 assessing her disability as 66% in relation to her entire body. This certificate issued by a team of three doctors from the Ram Manohar Lohia Hospital, mentions the physical tasks that the petitioner could perform –completely or partially. The petitioner was subjected to a second physical examination on 1st May, 2013 at the Safdarjung Hospital at the behest of the Union Public Service Commission. The said certificate also records the work/tasks that the petitioner could perform and whether she could discharge her duties while standing, sitting, etc. The petitioner had difficulty in taking long walks and would crouch with difficulty. She was capable of performing other tasks, including pushing, pulling, lifting, kneeling, bending etc. Referring to the rather ill-founded submission of the respondents, the Tribunal has rightly observed that the aim and purpose of the Disabilities Act is to demolish barriers and provide jobs for differently-abled persons as per their entitlement. Any attempt to undo and nullify the effect of the beneficial legislation is not acceptable. Physical challenges do not impede one's thoughts, hopes, ambitions or aspirations.

23. The last issue pertains to the relief or moulding of the relief which should be granted to the petitioner in the aforesaid factual background. A similar situation had arisen in *Union of India & Ors. v.*

Satya Prakash Vasisht 1994 Supp (2) SCC 52, where the Supreme Court had passed the following directions:

“4. The question now is of the nature of relief which should be granted to the respondent in view of the fact that he was actually appointed in February 1988 after refusal of stay in this matter by this Court. The selections were made in 1978 and the other selected candidates had been duly appointed and were working for several years prior to the date of actual appointment of the respondent in 1988. In such a situation, the grant of back wages to the respondent does not appear to be just and proper. Learned counsel for the respondent in all fairness accepted this position. We are also of the opinion that even though the respondent is entitled to the benefit of service for the earlier part commencing from the date on which he should ordinarily have been appointed on being duly selected yet it would not be appropriate to treat the earlier period prior to the date of his actual appointment as a period to be reckoned as ‘actual service’ if a period of actual service is prescribed as a necessary qualification for promotion. We also make it clear that the promotions already made of persons junior to the respondent in the merit list on account of the late appointment of the respondent shall not be disturbed as a result of this relief granted to the respondent. Subject to these limitations, the entire earlier period commencing on the date on which the respondent should have been ordinarily appointed would be treated as a part of his continuous service for all other purposes including the retiral benefits and fixation of his seniority.”

Almost identical directions were issued by the Delhi High Court in **Mohd. Faisal v. Govt. of NCT of Delhi & Ors., 2006(9) DRJ 600 (DB)**.

24. In view of the aforesaid discussion, we allow the present writ petition and modify the impugned order passed by the Tribunal by holding that the petitioner is eligible for allocation/appointment to the IFS in CSE-2012. We accordingly direct and issue mandamus to the respondents to

proceed to issue selection letter, etc. for appointment of the petitioner to the Indian Foreign Service. The petitioner would not be entitled to backwages and would undergo training with the next batch. However, the petitioner would be entitled to the benefit of service from the date on which she could have been ordinarily appointed. Further, this prior period till the date of actual appointment would not be treated as actual service qualifying for promotion. Consequently, promotions already made shall not be disturbed as a result of the relief granted to the petitioner. Subject to the said limitations, the entire period commencing from the date she would have been ordinarily appointed would be treated as a part of her continuous service for all purposes including the retiral benefits and fixation of seniority.

CM No. 10688/2014 also stands disposed of.

-sd-

SANJIV KHANNA
(JUDGE)

sd-

NAJMI WAZIRI
(JUDGE)

July 29, 2016
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