

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

O.A.NO.3305/2002

Tuesday, this the 16th day of September, 2003

Hon^{ble} Shri Shanker Raju, Member (J)
Hon^{ble} Shri R.K. Upadhyaya, Member (A)

(12)


Smt. Lajjawati Sharma
Assistant
EE-II, DGE&T
Ministry of Labour, New Delhi

..Applicant

(By Advocate: Smt. Rani Chhabara)

Versus

1. Union of India through the
Secretary, Ministry of Labour,
Govt. of India
Shramshakti Bhawan, New Delhi
2. The Deputy Secretary
Ministry of Labour
Govt. of India
Shramshakti Bhawan, New Delhi
3. Smt. Shami Sahni
Assistant/MS
4. Sanjiv Kumar
Asstt/DGE&T
5. O.P.Garg
Asstt/MS
6. Roshan Singh
Asstt/POE Bombay
7. R.C.Chopra
Asstt/DGE&T, Delhi
8. S.N.Gupta
Asstt/DGE&T
9. N.Dayanandan
Asstt/MS
10. D.C.Sharma
Asstt/MS
11. Ajay Kumar (SC)
Asstt/MS
12. Smt. Kamlesh Bhalia
Asstt/MS
13. P.Bhattacharya
Asstt/DGE&T
14. Vimal Kumar Sharma
Asstt/MS

- 
15. Surinder Singh
Asstt/DGE&T
 16. R.K.Tiku
Asstt/MS
 17. Vinod Kapur
Asstt/MS
 18. Bholu Nath
Asstt/MS
 19. Y.D.Sharma
Asstt/MS
 20. Smt. Rajeshwari Mohani
Asstt/MS
 21. Ashish Chatterjee
Asstt/CLC (C)
 22. Maha Singh
Asstt/DGE&T
 23. M.L.Jajoria (SC)
Asstt. POE, Delhi
 24. Mangu Lal (S)
Asstt./POE, Delhi
 25. B.D.Sharma
Asstt/DGE&T
 26. Nathoo Singh (SC)
Asstt/MS
 27. M. Pandeya
Asstt/DLS
 28. Smt. Tripta Kapur
Asstt/MS
 29. Jai Prakash Sharma
Asstt/MS
 30. Smt. Ravi Sharma
Asstt/MS
All through Ministry of Labour
(Administration I)
Shram Shakti Bhawan, Rafi Marg
New Delhi

..Respondents

(By Advocate: Shri R.N.Singh)

ORDER (ORAL)

Shri Shanker Raju:

Applicant impugns respondents' order of July,
2002 fixing her seniority in defiance of the order dated

1.8.2001 passed by the Apex Court in CA-4995-96 of 1997 in Sushma Mutreja v. Union of India & others. Quashment of the above impugned order is sought with direction to implement the seniority list of 1989, with all consequential benefits.

2. Applicant had joined the Ministry of Commerce in Central Secretariat Clerical Service (hereinafter referred to as CSCS Cadre) on the basis of selection held by UPSC in 1966. She was recommended for nomination as UDC on long-term basis. She reported to the Ministry of Labour w.e.f. 3.11.1982.

3. In the year 1987, a draft seniority list of UDCs was circulated which was objected to. Accordingly, seeking DoP&T's recommendations and in accordance with Rule 25 of CSCS Rules, 1962, the Central Government has taken a decision and issued a seniority list in 1989.

4. The aforesaid seniority list was disturbed in 1991 by the respondents. One Smt. Sushma Mutreja along with the applicant filed an Original Application before the Tribunal which was turned down.

5. Though the applicant has not preferred any SLP against the order, the co-applicant - Smt. Sushma Mutreja - filed CA-4995-4996 of 1997 before the Apex Court.

6. By an order dated 1.8.2001, the seniority list of 1989, which altered the seniority position of 1989, was

3

(4)

declared illegal and quashed. Directions have been issued to assign seniority on the basis of seniority list of 1989.

7. This resulted in issuance of the impugned Memo. According to the applicant, the directions of the Apex Court, though she had not filed any SLP, have been followed to grant seniority to the applicant but the same was not in accordance with 1989 seniority list, rather 1991 list has been followed.

8. Smt. Rani Chhabra, learned counsel of the applicant contends that though the applicant has not filed SLP against the order rejecting her claim but the other co-applicant challenged the decision of the Tribunal before the Apex Court and having set aside the directions issued by the Tribunal, the same will mutatis mutandis apply to her case also, which has a binding effect and a judgment in rem. To substantiate the plea, the decisions of the Apex Court in M/s. Shenoy & Co. v. Commercial Tax Officer, Circle II, Bangalore & others (1985) 2 SCC 512 and U.P. Pollution Control Board & others v. Kanoria Industrial & another (2001) 2 SCC 549 are relied upon.

9. In this view of the matter, it is stated that the respondents be directed to correct the seniority and re-assign the seniority to the applicant on the basis of 1989 seniority list, with all consequential benefits.

10. The respondents vehemently opposed the contentions and have stated that as in 1989 seniority

list there had been a mistake in assigning the seniority and the same was corrected, as such, the seniority assigned is correct.

11. We have carefully considered the rival contentions of the parties. A similar controversy in OA-3277/2002 and OA-1/2003 in K.L. Gandhi & another v. Union of India & others, where the modified seniority has been assailed by the Assistants, this Court by an order dated 4.9.2003 set aside the Memo assigning the seniority with a direction to place the applicants therein in the same position as in the seniority list of 1989, with all consequential benefits.

12. In all fours, the case of the applicant is covered by the above Tribunal's order.

13. Insofar as the plea that the Supreme Court's decision would not apply in the case of the applicant having regard to the decision of the Apex Court (supra), though the applicant has not assailed the order of the Tribunal before the Apex Court, but on challenge by the co-applicant, the decision has been set aside and the same is binding on all the parties and would act as a judgment in rem. As the seniority list as a whole has been set aside, the same will mutatis mutandis apply to the case of the present applicant as well.

14. In the result, for the forgoing reasons, the OA is allowed. Impugned order is quashed and set aside. Respondents are directed to assign the seniority to the

(6)

applicant on the basis of seniority list of 1989 and in that event, she would be entitled to all consequential benefits. The above directions shall be complied with by the respondents within a period of three months from the date of receipt of a copy of this order. No costs.



(R.K. Upadhyaya)
Member (A)



(Shanker Raju)
Member (J)

/sunil/