

(8)

Central Administrative Tribunal, Principal Bench

Original Application No.145 of 2002
M.A.No.126/2002

New Delhi, this the 16th day of August, 2002

Hon'ble Mr. Justice Ashok Agarwal, Chairman
Hon'ble Mr. M.P. Singh, Member(A)

1. Riyazuddin Saifi
Asst. Gr. I

2. S.C. Gupta
Asst. Gr. I

3. Shri Krishan
Asst. Gr. I

4. Ram Pal Singh
Asst. Gr. I

All working as Electrician in the office of:-
India Government Mint,
D-2, Sector-1, Noida, U.P.

.... Applicants

(By Advocate: Shri Anil Singal)

Versus

Union of India through

1. The Secretary,
Department of Economic Affairs,
Ministry of Finance,
Govt. of India, North Block,
New Delhi

2. The General Manager
India Government Mint
D-2, Sector-1, Noida, U.P.

3. Shri Ramresh Singh
in O/o India Government Mint
D-2, Sector-1, Noida, U.P.

.... Respondents

(By Advocate: Shri B.S. Jain, for respondents 1&2
Shri S.C. Soran, for respondent no.3)

O R D E R (ORAL)

By Mr. M. P. Singh, Member (A)

M.A.No.126/2002 for joining together in a
single OA, is allowed.

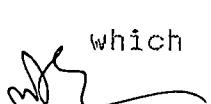
2. By filing this OA, applicants are seeking
directions to quash and set aside the impugned order dated

[Signature]

15.10.2001 (Annexure A-2) and seniority lists dated 1.7.2001 and 1.9.2001 (Annexure A-1). They have sought further directions to respondents to prepare fresh seniority list for the trade of Electricians Assistant Grade-I as was the position in seniority list dated 1.6.98.

3. Brief facts of the case are that the applicants were promoted to the post of Assistant Grade-I on regular basis on 22.8.95. Respondent no.3 who was a direct recruit, was initially appointed on ad-hoc basis and was subsequently regularised on 4.10.95. In the seniority list issued on 1.6.98, respondent no.3 was shown at serial no.7 and junior to all the four applicants. However the respondents again issued a seniority list on 1.7.2001 and in that seniority list, respondent no.3 was shown senior to the applicants by ante-dating his appointment from 4.10.95 to 22.8.95. Aggrieved by this, the applicants have filed the present OA claiming the aforesaid reliefs.

4. The respondents in their reply have stated that a DPC to regularise the ad-hoc appointment of the applicants was held on 22.8.95. As per the recommendations of the DPC, the ad-hoc appointment of the applicants to the post of Assistant Grade-I was regularised from 22.8.95. Respondent no.3 who was a direct recruit and was appointed on ad-hoc basis on 4.4.94, continued to work on ad-hoc basis till he was regularised on 4.10.95. He made a representation stating therein that he was holding the post of Assistant Grade-I from the date earlier to the date on which the applicants were given ad-hoc promotion to the



..... said post and his appointment was regularised on a subsequent date. The respondents examined the matter and found that the police verification report which was awaited for considering regularisation of ad-hoc appointment of respondent no.3 was received as early as June, 1994, yet his case for regularisation could not be referred to the DPC held on 22.8.95, erroneously. In view of this position, the respondents set up a committee of officers to examine the case and to give recommendations. The committee observed that respondent no.3 was appointed as Electrical Assistant Grade-I on ad-hoc basis only for want of police verification report which was received in June, 1994 but the department continued him on ad-hoc basis and his ad-hoc appointment was regularised at a belated stage on 4.10.95, The committee further observed that applicants were holding lower post of Assistant Grade-II on 4.4.94 i.e. the date on which respondent no.3 was initially appointed as Assistant Grade-I on ad-hoc basis by direct recruitment. The committee recommended to regularise the ad-hoc appointment of respondent no.3 also from 22.8.95 i.e. the date from which the ad-hoc promotions of applicants were regularised. The recommendations of the committee were accepted and the respondents have appointed respondent no.3 ^{regular} on ~~ad-hoc~~ basis w.e.f. 22.8.95. Since the respondent no.3 was initially appointed on ad-hoc basis only for want of police verification report and as his ad-hoc appointment was regularised from a retrospective date, therefore, in the seniority list issued on 1.7.2001, he was shown senior to the applicants.



5. We have heard the learned counsel for the parties and gone through the records.

6. During the course of arguments, the learned counsel for the applicants submitted that the respondents are relying on rule 2.1 of the Swamy's Compilation on Seniority and Promotion in Central Government Service, according to which "the relative seniority of all direct recruits is determined by the order of merit in which they are selected for such appointment on the recommendations of the UPSC or other selection authority; persons appointed as a result of an earlier selection being senior to those appointed as a result of a subsequent selection." Since in this case the applicants are promotee and respondent no.3 is a direct recruit, rule 2.1 is not applicable here.

7. Learned counsel for the applicants further argued that there is no provision in the recruitment rules for direct recruitment and appointment to the post of Assistant Grade-I is 100% by promotion and it is only the failing which clause which provides for direct recruitment. He also submitted that as per instructions issued by the DOP&T, the first vacancy for appointment is to be given to a promotee and therefore, even according to these instructions, respondent no.3 cannot find place at point no.1 in the seniority list issued on 1.7.2001.

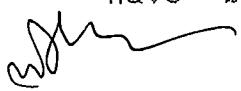
8. On the other hand, learned counsel for the respondents has submitted that if a person is appointed on ad-hoc basis from an earlier date, as per the judgement of



the Tribunal dated 23.2.2000 in OA No.2307/99 alongwith connected OAs, the crucial date from which the seniority of direct recruits has to be considered will be the date when the Staff Selection Commission makes the selection of direct recruits. Hence the date of forwarding the dossier of direct recruits from the Commission to the department, date of actual joining or taking over charge by the direct recruits would all be irrelevant. In their case it would be the date on which the Staff Selection Commission makes the selection of the direct recruits that will be the material date for fixing the seniority.

9. Learned counsel for the respondents further submitted that in the present case, respondent no.3 has been selected as a direct recruit even earlier than the date on which the applicants were appointed on ad-hoc basis to the post of Assistant Grade-I. He was appointed on ad-hoc basis on 4.4.94, the date on which none of the applicants were appointed to the post of Assistant Grade-I and were holding the post of Assistant Grade-II. Hence they cannot claim seniority over respondent no.3 who is a direct recruit and has been appointed to the post of Assistant Grade-I earlier than the applicants.

10. After perusing the record, we find that respondent no.3 has been selected by a Committee of Industrial Establishment and has been appointed on ad-hoc basis only for want of police verification report. The same was received in June, 1994; ^{ie} therefore, ought to have been appointed on regular basis in June, 1994 itself.



Even if the respondent no.3 has been regularised immediately after receipt of the police verification report in June, 1994, he would rank senior to the applicants who have been regularised only w.e.f. 22.8.95. Moreover, respondent no.3 has been appointed as a direct recruit against the vacancies which were available from an earlier date whereas the applicants have been promoted against the vacancies which accrued on a later date. In this view of the matter, respondent no.3 who is a direct recruit, is senior to the applicants and has been rightly assigned a higher rank in the seniority list issued on 1.7.2001.

11. In view of the above discussion, the OA is found to be devoid of merit. It is, therefore, dismissed. No costs.


(M.P. Singh)
Member (A)


(Ashok Agarwal)
Chairman

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