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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 955/2002

New Delhi, this the 8th day of June 2006

HON'BLE MR. V.K. MAJOTRA, VICE-CHAIRMAN (A)
HON'BLE MRS. MEERA CHHIBBER, MEMBER (J)

Govind Parshad, ASI
India Govt. Mint
D-2, Sector-1, Noida.

...Applicant.

(By Advocate Shri S.C. Soren)

VERSUS

1. India Govt. Mint
D-2, Sector-1, Noida. ...Respondent 1.
2. Union of India
through Secretary
Ministry of Finance
Govt. of India
North Block, New Delhi. ...Respondent 2.
3. Rajender Pd. Sharma, ASI Mint
SD-4, Shastri Nagar Sector-16,
Ghaziabad U.P. ...Respondent 3.

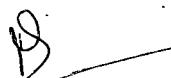
(By Advocate Shri R.V. Sinha for respondent nos.1-2 and Shri M.T. Siddiqui with
Shri A. Kant for respondent no.3)

O R D E R

By Hon'ble Mrs. Meera Chhibber:-

This OA was initially disposed of by directing respondents to re-consider the matter and pass a reasoned and speaking order in regard to applicant's seniority vide judgment dated 09.4.2002. The said judgment was challenged by respondent no.3 by filing Writ Petition No.3817/2002 before Hon'ble High Court of Delhi. Vide judgment dated 05.7.2005, Hon'ble High Court of Delhi was pleased to set aside the order dated 09.4.2002 and the matter was remitted back to the Tribunal with a direction to decide the matter afresh without getting influenced by the observations made in order dated 09.4.2002 and further by making clear that the order is passed by the Hon'ble High Court purely on the ground of principles of natural justice as respondent no.3 was not heard earlier. That is how OA is placed before us.

2. By this OA applicant has challenged the seniority list dated 19.9.2001 (page 15) whereby applicant has been shown at serial no.2 while Shri Rajender Prasad Sharma, respondent no.3 has been shown at serial no.1. This was done



on the basis of date of joining in Government service. It was submitted by the applicant that he and respondent no.3 both were found suitable and selected for the post of A.S.I. on same day by way of direct recruitment. Since applicant was at serial no.1 in the merit, he was rightly granted position at serial no.1 in the seniority list issued vide letter dated 20.10.1998 (page 25). The said seniority list was challenged by respondent no.3 by filing OA No.358/1999 whereby the seniority list dated 20.10.1998 was quashed and set aside and respondents were directed to proceed in the matter of revision of the concerned seniority list, if they so decide after following the principles of natural justice and issuing a show cause notice to the applicant.

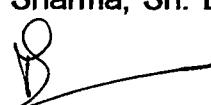
3. It is further submitted by the applicant that on the basis of said judgment, the respondents herein changed the seniority of applicant without any justification because as per circular dated 23.3.1990 (page 23) it was made clear that seniority has to be determined by merit in the selection panel and not by the date of joining in the organization. Therefore, short point for consideration before us is whether the seniority of applicant and respondent no.3 was to be fixed on the basis of date of joining or as per the merit maintained in the panel.

4. Counsel for private respondent submitted that even at the time when he had filed his earlier OA respondents had not produced any such document to show that applicant was considered to be at serial no.1 as per the merit which is evident from the observations made in judgment of his OA in para-4. Therefore, there is no justification to come to the conclusion that applicant was above him in the merit list.

5. The official respondents on the other hand have explained that both the applicant and Shri R.P. Sharma, respondent no.3 were appointed as Assistant Sub-Inspector by direct recruitment during 1988. Initially their seniority was fixed by putting Shri R.P. Sharma i.e. respondent no.3 at serial no.2 while Shri Govind Parshad was placed at serial no.3 in the seniority list based on their dates of joining. The employee at serial no.1 Shri B.S. Gurung, who was promoted, has retired on attaining the age of superannuation on 31.7.1997. Applicant gave a

representation regarding wrong fixation of his seniority. When recruitment records were seen, it was found that while making the recruitment, Selection Committee had kept Shri Govind Parshad above respondent no.3. As per general rules relating to seniority of direct recruits, seniority of direct recruits is to be based on merit in selection and not on the basis of date of joining. Accordingly, the revised seniority list was circulated vide circular dated 20.10.1998 whereby applicant was placed above respondent no.3 and objections were called from the concerned affected persons. Respondent no.3 gave a representation stating that he had joined on 19.2.1988 whereas applicant had joined on 22.2.1988, therefore, he should be placed above Shri Govind Parshad. He simultaneously filed an OA No.358/1999, which was decided on technical grounds for not following the principles of natural justice. According liberty was given to the respondents. Accordingly, respondents issued letter dated 19.9.2001 cancelling revised seniority list circulated vide letter dated 20.10.1998. The matter was to be placed before a committee to investigate and submit recommendations. Since no recommendations were submitted, his position was kept unaltered. In the meantime applicant has filed present OA. Thereafter respondents have reviewed the records and on the basis of proceedings dated 02.2.1988 of the Selection Committee a detailed and reasoned order has been passed on 20.5.2002 holding the applicant to be senior to respondent no.3.

6. We have heard all the parties and perused pleadings as well. Perusal of OM dated 22.12.1959 annexed by official respondents at page 9 shows that the relative seniority of all direct recruits is to be determined by the order of merit in which they are selected for such appointment, on the recommendations of the UPSC or other selecting authority, persons appointed as a result of an earlier selection being senior to those appointed as a result of a subsequent selection. It is thus clear that seniority has to be determined on the basis of order of merit of selection, in which candidates are selected. In this backdrop, if Minutes of Selection Committee annexed by respondent on page-8 are perused it is seen that as many as five candidates were interviewed namely, Sh. Dhara Singh, Sh. Rajpal Singh, Sh. Rajender Prasad Sharma, Sh. Dilawer Singh and Sh. Govind.



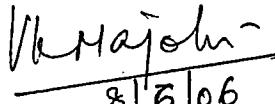
Parshad. While selecting, the Selection Committee observed that Sh. Govind Parshad (serial no.5) and Sh. Rajender Prasad Sharma (serial no.3) are found to be suitable and may be appointed as ASIs. Perusal of this document shows that even though Sh. Govind Parshad, who was at serial no.5, in the zone of consideration was placed at serial no.1, on the other hand, respondent no.3, who was at serial no.3 had been placed at serial no.2 in the panel. It is thus clear that in order of selection Sh. Govind Parshad i.e. applicant before us was placed at serial no.1, therefore, as per OM, as mentioned hereinabove, he should have been placed at serial no.1 above respondent no.3. Respondents have explained these facts in detail in their speaking order dated 20.5.2002 as well wherein it has been stated that on the basis of merit of the case based on the recommendations of the Selection Committee at the stage of initial induction, applicant would have to be placed at serial no.1 while Sh. Rajender Prasad Sharma, respondent no.3 would be placed at serial no.2. Counsel for private respondents could not show any other rule under which he could have been placed above Sh. Govind Parshad.

7. In view of the above discussion, OM dated 19.9.2001 whereby Shri Rajender Prasad Sharma was shown at serial no.1 in the seniority list and Sh. Govind Parshad was shown at serial no.2, is liable to be quashed and set aside. Ordered accordingly. Respondents are directed to place applicant at serial no.1 in seniority list on the basis of merit in the selection panel and respondent no.3 at serial no.2. It goes without saying that on the basis of seniority as indicated now, if applicants are due for next promotion and the vacancies are available, they may be considered for the same in accordance with rules. Respondents are also directed to issue the final seniority list within a period of six weeks from the date of receipt of a copy of this order.

8. With the above directions, OA is allowed. No order as to costs.


8/6/06.
(Mrs. Meera Chhibber)
Member (J)

/gkk/


8/6/06.
(V.K. Majotra)
Vice-Chairman (A)