

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A./100/4305/2014

New Delhi, this the 18th day of February, 2020



**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. A.K. Bishnoi, Member (A)**

1. Mukesh Kumar
S/o Ram Bihari Kumar,
R/o B-213/2, 3rd Floor,
Chattarpur Extension
Near Nanda Hospital,
New Delhi-110074
Age : 35 years
2. Munish Kumar Sharma
S/o Charan Singh,
R/o House No. 699
Near Talab, Village : Ghitorni,
MG Road, New Delhi-110030
Age : 29 years

(All Technical Assistants in NTRO)

....Applicants

(Through Shri Ajesh Luthra, Advocate)

Versus

1. National Technical Research Organization
Through Chairman,
Block-III, Old JNU Campus,
Ber Sarai, New Delhi-110067
2. N.J. Uthaya Thiyagu, S/o not known
3. Sansar Singh Yadav, S/o not known
4. Lalit Kumar, S/o not known
5. Satya Brata Bose, S/o not known
6. Udai Pal Singh, S/o not known
7. Radhey Shyam Gupta, S/o not known
8. Brinda Shah, S/o not known
9. Ved Prakash Maurya, S/o not known



10. Mahesh Kumar, S/o not known
 11. Shiv Raj Singh, S/o not known
 12. Subrata Sutradhar, S/o not known
 13. Suresh Kumar Sharma, S/o not known
 14. Girja Shankar, S/o not known
 15. Arun Kumar Singh, S/o not known
 16. Indra Pal Singh, S/o not known
 17. Udai Singh, S/o not known
 18. Kehar Singh, S/o not known
 19. Sandeep Yagnik, S/o not known
 20. Dinesh Chander, S/o not known
 21. Amrendra Naraya Mishra, S/o not known
 22. Udai Bir Singh, S/o not known
 23. Jog Raj Sharma, S/o not known
 24. Janam Singh, S/o not known
 25. Faujdar Ojha, S/o not known
 26. Debashish Paul, S/o not known
 27. Jagdale Ramchandra Narayan, S/o not known
 28. Shiv Kumar, S/o not known
 29. Sanjoy Mukhopadhyay, S/o not known
 30. Ashok Kumar Pandey, S/o not known
 31. JWO (Retd.) Anil Kumar Pandey, S/o not known
 32. Ashok Biswas, S/o not known
 33. Subir Nayak, S/o not known
 34. Sanjay Kumar, S/o not known
 35. Vishwanathan PR, S/o not known
- ... Respondents

(Through Shri R.K. Sharma, Advocate)

ORDER (ORAL)

Justice L. Narasimha Reddy, Chairman



This OA was initially filed by four persons and, later on, applicants 3 and 4 are said to have walked out of the OA. Now, it is confined to applicants 1 and 2.

2. It is stated that the applicants were recruited as Technical Assistants `A` in the National Technical Research Organization (NTRO) – 1st respondent herein in the year 2008. The next higher post is Technical Assistant `B`. As a result of the recommendations of the 6th Pay Commission, both the posts were merged into `Technical Assistant` (T.A.). Promotion from that post is to Technical Officer `A` (T.O.-A).

3. The seniority list of T.As. was prepared on 13.03.2013. Applicants 1 and 2 figured at serial number 101 and 91, respectively. Their grievance is that the respondents have recruited quite large number of ex-servicemen i.e. respondents 2 to 35 as T.A. in excess of their entitlement, and that in turn, has

adversely effected their seniority. This OA is filed challenging the seniority list dated 13.03.2013.



4. It is stated that though the applicants made representation to the provisional seniority list, their objections were not considered and they are denied their due seniority. According to the applicants, the reservation in favour of ex-servicemen cannot exceed 10 percent, as per DoP&T Ex-servicemen (Re-employment in Central Civil Services and Posts) Rules 1979 (for short "the Rules of 1979"), and the appointments made in excess of that, should not effect their seniority.

5. The first respondent filed a detailed counter affidavit. It is stated that the organization was formed in the recent past and services of skilled employees from various organizations were utilized. They state that there was no reservation in favour of ex-servicemen much less any appointments were made in excess of the extent of reservation. The 1st respondent has also stated that in case an ex-serviceman was already employed in civil service and he responded to the notification issued by them, the benefit of relaxation of age limit was given and barring that, not a single

benefit, referable to the capacity of ex-serviceman was provided.



6. We heard Shri Ajesh Luthra, for the applicants and Shri R.K. Sharma, for the respondents.

7. The 1st respondent is a highly specialized organization in the field of intelligence and security related issues. Obviously, for that reason, its various aspects such as method of recruitment are not made public.

8. The applicants were appointed as T.A. 'A' in the year 2008. At that time itself, respondents 2 to 35 were appointed. The applicants did not raise any objection as to the legality of the appointment of respondents 2 to 35. It is only after the post of T.A. was merged and the seniority list was published, that the applicants filed this OA.

9. The principal contention urged is that the appointment of respondents 2 to 35 is beyond the entitlement of ex-servicemen. Reliance is placed upon the Rules of 1979. Those rules are framed for the



purpose of rehabilitation of ex-servicemen and provision is made of reservation to the extent of 10 percent in various departments. As observed earlier, the appointment in the 1st respondent organization is substantially different from the appointment in other civilian departments. The persons are chosen depending upon their expertise in the field. It is rather incidental that many persons who had the background of military service, came to be selected. The fact remains that by the time such persons were selected by the 1st respondent, they were already holding the civilian posts.

10. The applicants did not even allege that there exists any provision for reservation in the appointments in the 1st respondent organization and that the same has been violated. On the other hand, the 1st respondent has explained the method of recruitment in the organization in para 4.9 of the counter affidavit as under:

“4.8 & 4.9 The averments made in para 4.8 and 4.9 of the O.A. are without any basis and hence strongly denied. It is stated that there was no reservation or quota for ex-servicemen as per the then existing Recruitment Rules and circular for the recruitment of TAs based on which the applicants/Respondents were recruited. Further, as per DoP&T Office



Memorandum dated 10th October 1994, it has been clarified that ex-servicemen who have already secured regular employment under the Central Government in a civil post would be permitted the benefit of age relaxation as admissible for ex-servicemen for securing another appointment in any higher posts or service under the Central Government. However, such candidates will not be eligible for the benefit of reservation in Central Government jobs. In view of these orders, it is reiterated that the private respondents did not get any extra benefit as alleged by the applicants. Copies of DoP&T orders dated 02.05.1985, 02.04.1992 and 10th October, 1994 are annexed as **Annexure R-2 (Colly)**. The private respondents were not recruited against any reserved Ex-servicemen quota and they were given seniority ahead of applicants in the merged grade of TA, due to merging of pay scales of Rs.5000-150-8000 & Rs.5000-175-9000 as recommended by 6th CPC and subsequent orders in the matter as has been stated in para 4.2.1 and 4.2.2 above.”

Even in their rejoinder, the applicants did not contradict this, much less, they cited any specific provision of law, contrary to what is pleaded by the respondents.

11. Once the respondents 2 to 35 were appointed earlier to the applicants, there is no way that the applicants can become senior to them. As already observed, the applicants did not place before us any specific rule, which can be said to have been violated in the context of appointment of respondents 2 to 35. In

the absence of that, it is difficult to hold that the seniority of the applicants is in any way adversely affected.



12. Reliance is placed upon the judgment of the Hon'ble Supreme Court in **State of Orissa and others Vs. Sukanti Mohapatra and others**, (1993) 2 SCC 486.

That was a case in which appointments to certain cadres were made in an irregular manner and, at a later stage, the government regularized such persons. In the context of determining seniority, the persons who were appointed in accordance with the rules raised an objection when they were put below those whose appointment was irregular. The Hon'ble Supreme Court held that a person whose appointment was irregular, cannot be placed above the one who is regularly appointed. The ratio of that judgment has no relevance to the facts of this case.

13. We do not find any merit in the OA. It is, therefore, dismissed. There shall be no order as to costs.

(A.K. Bishnoi)
Member (A)

(Justice L. Narasimha Reddy)
Chairman