

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

OA NO. 2174/2001

This the 4th day of April, 2002

HON'BLE SH. V.K. MAJOTRA, MEMBER (A)
HON'BLE SH. KULDIP SINGH, MEMBER (J)

1. Umesh Singh,
Jodhu Singh,
Qtr. No. 802, Sector-V
Pushp Vihar, New Delhi
2. Attar Singh Yadav
S/o Sh. Shubhash Chnand Yadav
40-D, CBI Colony, Vasant vihar
New Delhi
3. Shabhu Ram,
S/o Sh. Ch. Shri Ram,
50-C, CBI Colony, Vasant Vihar,
New Delhi
4. C. Samad
S/o Sh. Benjamin Samad,
1294, Laxmibai Nagar,
New Delhi.
5. Kartar Singh,
S/o Deshram,
Qtr. 214, Nanak Pura,
New Delhi
6. P.P. Thomas,
S/o late Sh. P.A. Pathrose,
45-F, CBI Colony, Vasant Vihar,
New Delhi.
7. Nirmaljeet Singh,
S/o Sh. Balram Singh,
458/33, Onkar Nagar (C)
Trinagar, Delhi-35
8. Kartar Chand,
S/o Sh R. Ram,
48-B, CBI Colony, Vasant Vihar,
New Delhi

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9. Birbal Singh
S/o Late Sh. D. Ram,
40-M, CBI Colony, Vasant Vihar,
New Delhi
10. Girvar Singh,
S/o Nathu Lal,
40-H, CBI Colony,
Vasant Vihar, New Delhi
11. Phool Singh,
S/o Sh. Ghisha Ram,
30-H, CBI Colony, Vasant Vihar,
New Delhi
12. Ashok Kumar,
S/o late Gourditta Mal
H. No- 746/B-III
Quilla Mahoula Rohatak Hry.
13. C.H. Veera Reddy,
S/o Sh. C. H. Narsi Reddy
131-B, Pushp Vihar, Sector-IV
New Delhi
14. Virpal Singh,
S/o sh. Daljeet Singh,
40-E, CBI Colony, V. Vihar,
New Delhi.
15. Pritam Singh Rawat,
S/o Sh. V.S. Rawat,
54-G, CBI Colony,
V. Vihar, New Delhi
16. Sunil Dutt,
S/o Sh. Budhi Singh,
K-1, 88, New Kavi Nagar,
Ghaziabad (U.P).

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17. Satpal Singh,
S/o Sh. Chhater Singh,
Vill. Sultanpur Dabas, New Delhi.
18. Naresh Kumar,
S/o Sh. Kamtar Lal,
Vill. & PO. Bijwasan,
New Delh.
19. Chander Pal
S/o Sh. Gurchan Lal,
Vill. Narela,
Distt. Faridabad Hry.
20. Manmohan Singh,
S/o Sh. Sultan Singh,
CBI Academy Ghaziabad.
21. Kartik Shit,
S/o late Bhaskan Shit,
43-F, CBI Colony,
V. Vihar, New Delhi
22. Jaipal Singh,
S/o Sh. Bhapai Singh,
37-M, CBI Colony,
V. Vihar, New Delhi
23. Diwjander Singh,
S/o Sh. Ravinder singh,
50-A, CBI Colony, V. Vihar,
New Delhi.
24. K. Premajan,
S/o late K Kumaran
47-B, CBI Colony,
V. Vihar, New Delhi.
25. R. Rajendran,
S/o Sh. C. Raju,
38-H, CBI colony, V. Vihar,
New Delhi

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26. Johar Lal,
S/o Indra Narayan Nayak,
41- H, Vasant Vihar,
New Delhi.
27. Sanjay Kumar,
S/o Sh. Mahar Singh
45-G, CBI Colony,
Vasant Vihar,
New Delhi.
28. Harpal Singh,
S/o late Sh. Hargopal Singh,
53-F, CBI Colony
Vasant Vihar,
New Delhi.
29. Paramjeet Singh,
S/o Sh. Hajara Singh,
Malkah Raj,
G-1, Raj Nagar-II,
Palam Colony,
New Delhi.
30. R.N. Jeshwal,
S/o Late Kamal Choudhary
Q.No-19 CBI Accadamy,
Ghaziabad, U.P.
31. Mahkar Singh,
S.o Sh. Balwant Singh,
41-P, V. Vihar,
New Delhi.
32. Lal Chand Meera,
S/o Sh. Jagan Nath Meena,
RZ- 101, Raj Nagar-II,
Palam, Village,
New Delhi.
33. Rajinder Kumar Sharma,
S/o Sh. Jai Bhagwan Sharma,
39-C, CBI Colony,
Vasant Vihar,
New Delhi.

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34. Ramesh Kumar,
S/o Sh. Gujara Ram,
42-M, CBI Colony,
V. Vihar, New Delhi.
35. Khush Pal
S/o Sh. Ram Avatar,
A-23, Madangarhi, New Delhi
36. Raghuwinder Singh,
S/o Sh. Gagan Singh,
38-M, CBI Colony,
Vasant Vihar, New Delhi.



(By Advocate: Sh. B.S.Maine)

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Versus

APPLICANTS

1. Union of India
Through Secretary
Ministry of Home Affairs, North Block,
New Delhi
2. Administration Division
Central Bureau of Investigation
Govt. of India,
Block No.3, C.G.O. Complex,
Lodhi Road,
New Delhi
3. The Secretary Ministry of Personnel
Grievances and Pensions,
Department of Personnel and Training,
Govt. of India, North Block,
New Delhi

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RESPONDENTS

(By Advocate: Sh. R.N.Singh)

ORDER

By Sh. Kuldip Singh, Member (J)

This is a joint OA filed by 36 applicants who are similarly placed and have a grievance that the respondents had denied the benefits of the past service which has been rendered by them as Constables in computing their seniority in C.B.I. after absorbing them even though the issue has already been concluded by the Hon'ble Supreme Court in number of cases and in SI Roop Lal's case, the Hon'ble Supreme court has held that denying the benefit of past service to be computed for seniority is violative of Article 14 & 16 of the Constitution

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and OM dated 29.5.86 on the basis of which applicant's seniority has been fixed has been adjudicated upon and the Hon'ble Supreme Court struck down the word 'whichever is later' from the OM dated 29.5.86 by holding that it is violative of Articles 14 & 16 of the Constitution, so the applicants alleged that since all the applicants have worked earlier in CRPF, ITBP, CIST, BSF and State Police and they were appointed on deputation in CBI from different dates starting from 1987 onwards and were continued without any break till 1998 when all the applicants were absorbed in CBI after judging their suitability.

2. The applicants further say that since earlier also at the time of absorption the other Constables were given benefit of their past service, so the applicants were also confident that they will also get the benefit of past service for the purpose of computing their seniority but the applicants have not been given the benefits, so they have prayed and asked for the following reliefs:

- (i) Quash and set aside the seniority lists dated 16.9.99 and 5.5.99, the OM dated 27.3.2001 and letter dated 31.7.2001.
- (ii) declare that the applicants are entitled to the benefit of counting their past service as constables while computing their seniority in CBI in view of various judgements of Hon'ble Supreme Court and Tribunal.
- (iii) to direct the respondents to redraw the seniority list in terms of prayer (2) above.

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(iv) to direct the respondents to grant them all consequential benefits by holding DPC/review DPCs on the basis of revised seniority list for the post of Head Constable and if found fit by DPC to grant them promotion, arrears etc.

(v) and/or to pass such other order/orders that Your Lordships may deem fit and proper.

3. Respondents are contesting the OA. Respondents have admitted that the Hon'ble Apex Court had held the words 'whichever is later' occurring in the OM dated 29.5.86 are violative of Articles 14 & 16 of the Constitution and the Government of India has also amended OM dated 29.5.86 by substituting the words 'whichever is later' by term 'whichever is earlier' vide amended OM dated 27.3.2001. Respondents after examining the OM also sought clarifications of the Government to ascertain whether the seniority of persons absorbed in CBI prior to December 1989 is also to be taken into account for counting the past service but the Government of India, Department of Personnel and Training vide their AVD.11 dated 12.7.2001 clarified that the provisions of OM dated 27.3.2001 cannot be applied to persons who were absorbed before 14.12.99 i.e. Supreme Court judgment in the matter of Roop Lal vs. Lt. Governor of Delhi.

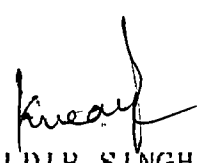
4. We have heard the learned counsel for the parties and gone through the record.


5. From the perusal of the reply we find that the respondents have admitted that the Hon'ble Apex Court had held that the words 'whichever is later' appearing in the OM dated 29.5.86 are violative of Articles 14 and 16 of the Constitution. So

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the effect of the same will be as if the word '**whichever is later**' were not there in the OM dated 29.5.86. It cannot be said that the judgment of the Hon'ble Apex Court is prospective and will be applicable only from the date of the judgment because if the word '**whichever is later**' is violative of Articles 14 and 16 of the Constitution then the same are violative of Articles 14 & 16 right from the date the same were incorporated, i.e. from 29.5.86 and hence it cannot be said that the same are not violative till 14.12.99, So the reasoning adopted by the DOPT that the amended OM is to be applied only from 14.12.99 cannot stand and it has to be read as if the words '**whichever is later**' did not exist in the OM dated 29.5.86. So in the case of the applicants also these words '**whichever is later**' did not exist in the OA, as such the applicants are entitled to count their past service rendered in their respective department for the purpose of computing their seniority. Thus, we find that the OA deserves to be allowed.

6. Accordingly, we allow the OA and quash and set aside the seniority list dated 16.9.99 and 5.5.99. We further declare that the applicants are entitled for the purpose of counting their past service as Constables in the CBI. In view of the judgment of the Hon'ble Supreme Court, we direct the respondents to prepare the seniority list and grant all consequential benefits. OA stands disposed of.


(KULDIP SINGH)
Member (J)


(V.K. MAJOTRA)
Member (A)

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