

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 358/99
MA 2261/99

(19)

New Delhi, this the 8th day of January, 2001

Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman (J)
Hon'ble Sh. Govindan S. Tampi, Member (A)

1. Sh. Rajender Prasad Sharma, ASI
India Govt. Mint, Noida
R/o SD-4, Shastri Nagar,
Sector-16, Ghaziabad (UP)

...Applicant

(By Advocate Shri S.D.Kaushik)

V E R S U S

1. India Govt. Mint
D-2, Sector-1, Noida - 201301
Distt. Gautambudh Nagar (UP)

through its General Manager

2. Union of India,
through its Secretary
Ministry of Finance
New Delhi.

3. Shri Govind Prasad
ASI, India Govt. Mint
D-2, Sec-1, Noida-201301
Distt. Gautambudh Nagar (UP)

...Respondents

(None for respondents 1 & 2)
(Respondent No.3 in person)

O R D E R (ORAL)

Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman (J)

The applicant who is working with Respondents 1 & 2 is aggrieved by the action of the respondents in revising his seniority by the letter dtd 20-10-1998, by which his position is shown at serial No.2 i.e. below that of respondent No.3, Sh. Govind ~~Prasad~~ Prasad, who has been shown at serial No. 1.

2. This case was part-heard and on the previous date, learned counsel for respondents 1 & 2 had sought an adjournment to bring the relevant records as ordered by the Tribunal previously. As none has appeared for the respondents even on the

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second call, we have heard Sh. S.D.Kaushik, learned
counsel and perused the available records.

3. Learned counsel has submitted that as per the Annexure-D order issued by the respondents, the applicant was shown at serial No. 2 as Assistant Sub-Inspector in the Seniority List of security staff i.e. below one Sh. B.S.Gurung, who has admittedly retired from service w.e.f. 31-7-1997. According to him, thereafter, the respondents have issued a Seniority List in which the applicant has been shown at serial No. 1 and respondent No.3 at serial no. 2 (Annexure A-1 of the reply). Learned counsel for the applicant submits that this seniority list is in order as the applicant moved up by one position after the retirement of Sh. B.S.Gurung in 1997. His grievance is that even without issuing a show cause notice, the respondents issued the impugned seniority list of security staff on 1-6-1998, reversing the position whereby respondent No.3 is shown at serial no.1 and the applicant at serial No.2. His grievance is that this cannot be done and that to without complying with the principles of natural justice after a number of years, where admittedly the respondents themselves have issued an earlier seniority list showing the applicant senior to respondent No.3.

4. From the reply filed by respondents 1 and 2, we note that they have stated that the seniority of the incumbents issued by them vide Annexure A-1 order is wrong. They have submitted that on receipt of representations, including one from Sh. Gobind Prasad/respondent No.3, regarding the seniority position, they had reviewed the records and had, therefore, passed the correct order dated 20-10-1998

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with the revised seniority list. Their contention is that these persons had been selected by direct recruitment and, therefore, at that time in 1987 and 1988 their seniority positions had to be determined according to their merit in the selection and not according to their date of joining. It was with regard to these facts that the respondents were to produce the relevant records for our perusal which has, however, not been done, in spite of an adjournment having been sought and granted to them for this purpose on 4-1-2001. These facts are disputed by the learned counsel for the applicant, who has submitted that in any case, right from 1987-88 the applicant had always been shown senior to respondent No.3 in the seniority list of security staff and any revision in that position ought to have been done only after the respondents issued a show cause notice. We further note that the representations submitted by the applicant on 10-11-1998 against the impugned seniority list is also stated to have not been replied by the respondents so far. Hence the OA.

5. We have also seen the reply filed on behalf of the respondent No.3, who has also relied on the same instructions that the seniority position will be determined on the merit position obtained by the candidates in the selection. He has further contended that the Govt. has the right to correct a mistake, even without a show cause notice and as the official respondents had failed to apply the correct rule and law earlier in fixing seniority of direct recruits which should be based on merits, the application may be dismissed.

Yours

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6. We have carefully considered the pleadings, the submissions made by the learned counsel for the applicant and respondent 3. The main contention of respondent, 1 & 2 is that ~~that~~ the Selection Committee while making recruitment during the years 1987-88 had kept respondent No.3 in the first position and the applicant at the second position. The respondents are relying on the Government of India, MHA OM No. 9-11/56-RPS dated 22-12-1959 regarding the placement of the incumbents who are direct recruits as per the merit position in the selection. While this position may not be disputed, the official respondents have failed to explain as to how they had overlooked these rules and instructions for determination of the seniority of direct recruits for a number of years, wherein they have admittedly placed the applicant senior to respondent No.3. They have submitted that on receipt of representations from respondent No.3 in 1997 i.e. about ten years later, they have reviewed the position and issued the amended seniority list vide the impugned order dated 20-10-1998. By this letter they have reversed the earlier seniority list and assigned the applicant a lower position. It is also relevant to note that the respondents have not produced the relevant report of the Selection Committee for our perusal as undertaken by them. Therefore, in the circumstances of the case, we see force in the contentions of the learned counsel for the applicant that the respondents could not have revised the seniority list to the detriment of the applicant after more than a decade and that too without issuing a show cause notice and giving him an opportunity to put

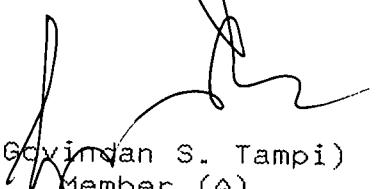
forward his case.

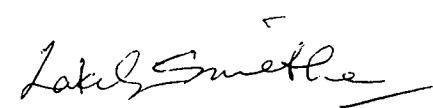
7. In the result for the reasons above, the OA succeeds and is allowed with the following directions :-

(i) The impugned seniority list dated 20-10-1998 is quashed and set aside;

(ii) The respondents may, however, 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 along with details and copies of the records/documents they rely upon.

No order as to costs.


(Gavindan S. Tampi)
Member (A)


(Smt. Lakshmi Swaminathan)
Vice-Chairman (J)

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