

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 966/99

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T.A.No.

DATE OF DECISION 3-8-2000

Sh.Yoyga Butt

....Petitioner

Sh.V.M.Therja

....Advocate for the
Petitioner(s)

VERSUS

UOI & Ors

....Respondent

Sh.Rajinder Nischal for the
official respondents
Sh.B.Lall for Pvt.respondent

....Advocate for the
Respondents.

CORAM

The Hon'ble Shri S.R. Adige, Vice Chairman(A)

The Hon'ble Smt.Lakshmi Swaminathan, Member (J)

1. To be referred to the Reporter or not Yes
2. Whether it needs to be circulated to other Benches of the Tribunal? No.

Lakshmi Swaminathan
(Smt.Lakshmi Swaminathan)
Member(J)

Central Administrative Tribunal
Principal Bench

O.A. 966/99

New Delhi this the 3rd day of August, 2000

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Hon'ble Shri S.R. Adige, Vice Chairman (A).
Hon'ble Smt. Lakshmi Swaminathan, Member(J).

Yagya Dutt,
Senior Scientific Assistant,
Composite Food Laboratory ASG,
P-11 (Ground Floor), Havlock Lines,
Lucknow Road Timarpur,
Delhi-110054.

... Applicant.

(By Advocate Shri V.M. Thareja with Shri S.C. Luthra)

Versus

1. Union of India, through
its Secretary,
Ministry of Defence, South Block,
New Delhi-110001.
 2. Deputy Director General,
Supply & Transport,
(FI) Army Headquarters,
Q.M.G's Branch (ST-7),
P-11 (First Floor), Havlock Lines,
Lucknow Road Timarpur,
Delhi-110054.
 3. ASC Records (Supply),
Bangalore-560007,
Karnataka.
 4. Shri Ramesh Chander, SSA,
Composite Food Laboratory ASC,
S&T Complex, 7th Floor,
Golaba, Mumbai-400005.
- ... Respondents.

(By Advocate Shri Rajinder Nischal - for official
respondents)
By Advocate Shri B. Lall - for Respondent No. 4)

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

The applicant is aggrieved by the seniority list of Senior Scientific Assistants (SSA) as on 1.1.1998 issued by the respondents, in which he has been shown junior to Respondent 4, read with the order dated 25.2.1999, in which also he has been shown junior.

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2. The applicant being aggrieved by the aforesaid lists showing his position as junior to Respondent 4, had made a representation on 20.5.1996. In this letter, he has stated that when he and Respondent 4 were in the grade of Junior Scientific Assistants (JSAs), he was senior to Shri Ramesh Chander, Respondent 4, who belongs to the reserved category and had been promoted to the higher grade of SSA following the reservation in the roster. The applicant's case is that when he was promoted to the higher grade of SSA, he being a general candidate must regain his seniority over Respondent 4, who had been promoted earlier because of the reservation for ^BSC candidate. Learned counsel for the applicant has relied on the judgements of the Supreme Court in **Union of India Vs. Virpal Singh Chauhan** (JT 1995(7) SC 231) and the Tribunal (Guwahati Bench) in **V.M. Thareja Vs. Union of India & Ors.** (OA 188/90), decided on 16.2.1994 (Annexure 'A-4'). He has submitted that the judgement of the Supreme Court in **Jagdish Lal & Ors. Vs. State of Haryana & Ors.** (1997(6) SCC 538), relied upon by Respondent 4, has been over-ruled by a later Constitutional judgement in **Ajit Singh & Ors. Vs. State of Punjab and Ors.** (JT 1999(7) SC 153). He has, therefore, submitted that the impugned seniority lists showing the applicant junior to Respondent 4 may be quashed and set aside with a direction to the respondents to revise the seniority list of SSAs in accordance with law.

3. We have heard Shri Rajinder Nischal, learned counsel for Respondents 1-3 and Shri B. Lall, learned counsel for Respondent 4 and have perused their replies.

4. According to Respondents 1-3, they have already implemented the judgement of the Guwahati Bench of the Tribunal in **V.M. Thareja's case** (supra). That case will not apply to the present case for restoring the applicant's seniority because he was considered and promoted by a different DPC in 1995, to the one held for Respondent 4. They have also stated that they have followed the relevant circulars in preparation of the seniority lists, which requires that the candidate whose seniority is to be restored should have been considered by the same DPC. 15

5. In **Ajit Singh's case** (supra), the Hon'ble Supreme Court has held as follows:

"We, therefore, hold that the roster point promotees (reserved category) cannot count their seniority in the promoted category from the date of their continuous officiation in the promoted post. - vis-a-vis the general candidates who were senior to them in the lower category and who were later promoted. On the other hand, the senior general candidate at the lower level, if he reaches the promotional level later but before the further promotion of the reserved candidate he will have to be treated as senior, at the promotional level, to the reserved candidate even if the reserved candidate was earlier promoted to that level".


BC


(Emphasis added)

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6. Taking into account the facts and circumstances of the case and the decision of the Apex Court, referred to above, the stand taken by Respondents 1-3 that there is no ground to review the seniority of the applicant because he was promoted later to Respondent 4, who belongs to the reserved category, cannot be sustained. The Supreme Court in **Ajit Singh's case** (supra) has held that "the senior general candidate at the lower level, if he reaches the promotional level later, but before the further promotion of the reserved candidate, he will have to be treated as senior at the promotional level, to the reserved candidate even if the reserved candidate was earlier promoted to that level". This decision of the Supreme Court is applicable to the facts of the present case.

7. In the result, O.A. succeeds and is allowed. The impugned seniority of SSAs as on 1.1.1998 and letter dated 25.2.1999 showing the seniority of the applicant qua Respondent 4 are quashed and set aside. The respondents are directed to review the case of the applicant in the light of the judgement of the Supreme Court in **Ajit Singh's case** (supra) and revise the seniority list accordingly. Necessary action in this regard shall be taken within two months from the date of receipt of a copy of this order. No order as to costs.


(Smt. Lakshmi Swaminathan)
Member(J)


(S.R. Adige)
Vice Chairman (A)

'SRD'