

Central Administrative Tribunal
Principal Bench

O.A.No.618/98

HON'BLE MR. JUSTICE K.M.AGARWAL, CHAIRMAN
HON'BLE SHRI R.K.AHOOJA, MEMBER(A)

New Delhi, this the 15th day of September, 1998

Shri S.C.Srivastava
Printing Assistant
Vidhi Sahitya Prakashan in
Law Institute
Ministry of Law
r/o 44/2-A, Sector 2,
Golmarket
New Delhi - 1. Applicant

(By Shri U.S.Prasad, Advocate)

Vs.

1. Union of India through
Secretary
Ministry of Law and Justice
(Legislative Department)
Vidhi Sahitya Prakashan
New Delhi - 1.
2. Director (E)
Department of Personnel & Training
Ministry of Personnel
Public Grievances and Pension
New Delhi.
3. Shri M.P.Singh
Assistant (Printing)
Vidhi Sahitya Prakashan
in Law Institute
Ministry of Law
New Delhi - 1. Respondents

(By Shri N.S.Mehta, Advocate)

O R D E R (Oral)

Hon'ble Mr. Justice K.M.Agarwal, Chairman

The applicant has filed this OA for his seniority over the third respondent in the post of Printing Assistant.

2. It is not disputed that in the feeder post, the applicant was senior to the third respondent. The third respondent being a member of Scheduled Caste got accelerated post to the post of Printing Assistant in the

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year 1994. Subsequently, in the year 1996 the applicant was also promoted and he was shown junior to the third respondent. The applicant therefore agitated the matter for restoration of the original seniority. Being unsuccessful, he has filed the present application for restoration of his seniority as was in the feeder category. The petition is resisted by the official respondents.

3. The learned counsel for the applicant has made the following two submissions:

(a) He was senior to the third respondent.

(b) The third respondent was not a member of the Scheduled Caste but by fraud he got appointment as a Scheduled Caste candidate and also got promotion against quota reserved for Scheduled Caste.

4. At the outset, it may be stated that the applicant belongs to general category whereas the third respondent rightly or wrongly claimed Scheduled Caste category.

5. It is true that in the feeder category the applicant was shown senior to the third respondent. Treating the third respondent as a member of the Scheduled Caste, he was given accelerated promotion in the year 1994. The applicant also got his promotion to the post of Printing Assistant in the year 1996.

[Signature]

6. It appears that on the basis of date of promotion, name of the third respondent was shown above the name of the applicant in the seniority list of Printing Assistants. Therefore, the applicant agitated for restoration of his original seniority.

7. In Union of India & Others Vs. Virpal Singh Chauhan & Others, JT 1995(7) SC 231 the Hon'ble Supreme Court said that in cases where candidates got accelerated promotion and the persons senior to them in feeder category get similar regular promotions subsequently on the basis of their seniority will also get restoration of their seniority as per seniority in the feeder category. Virpal Singh Chauhan's case (Supra) however was to have prospective effect. The seniority fixation of the applicant was prior to the date of the Supreme Court's decision in Virpal Singh Chauhan's case and therefore on that basis he cannot get his original seniority as claimed in this OA.

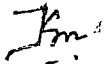
8. So far as the question about the category of the third respondent is concerned, it is not disputed that he entered into Government service as a candidate belonging to Scheduled Caste and got accelerated promotion as a member of the Scheduled Caste. If he defrauded the Government, by filing a false certificate about his caste, he will suffer the consequences. We are informed that the official respondents are conducting an enquiry into the caste certificates submitted by the third respondent at the time of entering into Government service. If those certificates are ultimately found to be forged, the Government servant will have to face

(10)

(4)

departmental enquiry. If the allegations are proved, he may lose his employment. But if there is suspicion about the caste of the third respondent, the applicant, on that basis cannot claim seniority over him in the seniority list of Printing Assistants in view of the fact that his promotion to the said post was subsequent to that of the date of promotion of the third respondent.

9. For the foregoing reasons, we find no substance in the OA. Accordingly, it is hereby dismissed. No costs.


(K.M. Agarwal)
Chairman


(R.K. Ahoja)
Member(A)

/rao/