

CENTRAL ADMINISTRATIVE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI.

1. ORIGINAL APPLICATION NO. 1478/95.
2. ORIGINAL APPLICATION NO. 1899/95.

Wednesday, this the 8th day of September, 1999.

Coram: Hon'ble Shri Justice R.G.Vaidyanatha, Vice-Chairman,
Hon'ble Shri J.L.Negi, Member(A).

O.A. No. 1478/95.

1. K.C.Arora,
House No.678,
Sector - 7,
Gurgaon.
2. R.K.Sengal,
House No.108,
Gagan Vihar, Extn.,
Delhi - 110 051.
3. M.M.Malhotra,
F-6/B, Gali No.16,
Laxmi Nagar,
Delhi - 110 092.

... Applicants.

(By Advocate Mr.V.K.Rao)

Vs.

1. The Union of India through
the Secretary,
Department of Revenue,
Ministry of Finance,
North Block,
New Delhi.
2. Chief Commissioner of Income Tax,
C.R. Building,
Indraprastha Estate,
New Delhi.
3. The Secretary,
Central Board of Direct Taxes,
North Block,
New Delhi.

... Respondents.

(By Advocate Mr. V.P.Uppal)

O.A. No. 1899/95.

1. J.S.Tanwar,
WZ-153,
Naraina,
New Delhi - 110 028.
2. A.K.Gupta,
A-177, Dayanand Colony,
Lajpatnagar IV,
New Delhi - 110 024.

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3. T.C.Malhotra,
353, Bhola Nagar,
Shahdara,
Delhi - 110 031.
4. T.R.Katyal,
LU - 48,
Pitampura,
New Delhi.
5. Kailash Mittal,
Block No.76,
Quarter No.3-D,
Kali Bari Marg,
New Delhi - 110 001.

... Applicants.

(By Advocate Mr.D.C.Vohra)

Vs.

1. Union of India through
the Secretary,
Department of Revenue,
Ministry of Finance,
North Block,
New Delhi - 110 011.
2. Commissioner of Income-tax -
Delhi - I,
Central Revenue Building,
Indraprastha Estate,
New Delhi - 110 002.
3. Central Board of Direct Taxes
through its Secretary,
Ministry of Finance,
North Block,
New Delhi - 110 011.
4. Rajesh Kumar,
5. Subhash Verma,
6. Ms.Sudha Rani,
7. Kamal Kumar Khanna,
8. Yash Pal Chawla,
9. Pankaj Kumar Saxena,
10. Sanjeev Mahajan,
11. Yogesh Kumar Sharma,
(Respondents No.4 to 11 -
OSO in the Office of the
Chief Commissioner of
Income-tax Delhi - I,
CR Building, I.P.Estate,
New Delhi - 110 002.)
12. R.K.Mirg,
13. P.N.Dixit,
14. Tejinder Kumar,

... Respondents.
(Official)

for

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15. Om Prakash Sharma (SC),
16. Rajesh Kumar (SC),
17. Rajinder Kumar (SC),
18. M. Logapathi (SC),
19. A. Joseph,

... Respondents.
(4 to 19 Private Respondents)

(Respondents No. 12 to 19 are Inspectors of Income-tax, CIT-X, VIII, IV, IX, VII, VIII, II and IX respectively; CR Building, Indraprastha Estate, New Delhi - 110 002.)

(By Advocate Mr. V.P. Uppal for official Respondents and none for Private Respondents.)

O R D E R (ORAL)

(Per Shri Justice R.G. Vaidyanatha, Vice-Chairman)

These are two applications filed by the respective applicants under section 19 of the Administrative Tribunals Act, 1985. Reply has been filed on behalf of the respondents. We have heard Mr. V.K. Rao in O.A. 1478/95 and Mr. D.C. Vohra in O.A. 1899/95, the learned counsels for the applicants and Mr. V.P. Uppal, the learned counsel for the official respondents in both the cases. None appeared on behalf of the private respondents.

2. The grievance of the applicants in both the cases is that their juniors have been promoted as Income Tax Officers (ITOs) ignoring the claim of the applicants. It is also their further case that without finalising the seniority list, the administration has gone into the exercise of making promotions and accordingly promoted juniors. Being aggrieved by this action, the applicants have filed these two OAs. Their main prayer in the O.As. is that a direction be given to the official respondents to prepare

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a seniority list of all the Income-tax Inspectors as per rules and then applicants should be considered for promotion by a review DPC and if found fit they should be promoted from the dates of their juniors got promotion with all consequential benefits. The applicants are challenging the legality and validity of the eligibility list dt. 20.7.1995 and the consequent order of promotion dt. 7.9.1995.

3. The official respondents in their reply have asserted that the promotions that have been made are purely ad-hoc promotions since seniority list had not been finalised and they are going to review the promotions once the seniority list is prepared.

4. At the time of arguments to day, the learned counsel for the applicants brought to our notice a subsequent event viz. a seniority list issued by the Department dt. 8.2.1999, which is taken on record. Now, the applicants are satisfied with the final seniority list issued by the Department on 8.2.1999. Therefore, the main prayer in the G.A. seeking a direction to the respondents to prepare a seniority list no longer survives for consideration.

5. The question ^{whether} that the applicants are entitled to promotion as per the seniority list ^{admits of} ~~is~~ of no doubt. In fact, it is ~~an~~ admitted in the counter of the respondents that the seniority list had not been finalised due to certain administrative reasons and litigations. In particular, at page 7 of the counter (vide page 84 of the

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paper book) it is stated as follows :

"It is denied that the respondents are making any regular promotions to the post of Income Tax Officer Group 'B'. The promotions will be reviewed as and when seniority list is finalised and if necessary, review DPC will be held soon thereafter. The present promotions will not affect the seniority of the person either as Inspector or as Income Tax Officer, Group 'B'."

In the above statement, the official respondents have clearly admitted that the appointments so far made are not regular promotions and that the promotions will be reviewed as and when seniority list is finalised and if necessary review DPC will be held soon thereafter.

They have further given an assurance that the promotions will not affect the seniority of a person either as an Inspector or as an Income-tax Officer Group 'B'. In view of this categorical assurance, the applicants need not have any apprehension now that ~~the~~ ^{their} juniors

been considered since the seniority list has been finalised and issued on 8.2.1999. It is for the official respondents now to take up the question of promotion and consider the names of the applicants by calling for the review DPC. In case the review DPC holds that the applicants are fit and suitable for promotion then they should be granted promotion from the date their juniors in the seniority list got promotion as ITOs.

6. In the result, both the OAs are disposed of as follows :

1. As admitted in the counter reply mentioned above and in view of the seniority list dt. 8.2.1999 the official respondents are directed to make promotions strictly in terms of the seniority list dt. 8.2.1999. They must arrange a review DPC to consider the claim of the applicants for promotion. In case, the applicants are found fit and suitable for promotion by the review DPC

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then on the basis of the said seniority list, the applicants shall be granted promotion from the date their juniors got promotion. The applicants should get seniority over the juniors in case they are found suitable for promotion. However, the applicants will not be entitled to any monetary benefits. In such a case, the applicants' pay may be fixed notionally from the dates of their deemed retrospective promotion. However, the applicants will not be entitled to any actual arrears of monetary benefits till the date of actual order or promotion. The actual monetary benefits are prospective, only from the date of order of promotion and consequent date of assuming charge.

2. In the circumstances of the case, the official respondents are granted three months time from the date of receipt of copy of this order to comply with these directions.
3. In the circumstances of the case, there will be no order as to costs.

(J.L.NEGI)
MEMBER (A)

(R.G.VAIDYANATHA)
VICE-CHAIRMAN.

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Attested
Island
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