

Central Administrative Tribunal
Principal Bench: New Delhi

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OA No.1653/96

New Delhi, this the 24th day of December, 1997

Hon'ble Dr. Jose P. Verghese, Vice-Chairman (J)
Hon'ble Shri N. Sahu, Member (A)

Bhushan Narain Kanaujia
s/o late Ram Charan Kanaujia,
aged about 46 years,
r/o 196/x-1, Krishnapuram,
Kanpur 208 007 (Uttar Pradesh) ... Applicant

(By Advocate: Shri T.C. Aggarwal)

Vs.

Union of India through

1. Director,
Defence Materials & Stores
Research & Development Establishment,
Post Office DMSRDE, Kanpur.
2. Secretary to Govt. of India,
Ministry of Defence,
Defence Research & Development Organisations,
'B' Wing, Sena Bhawan,
DHQ PO New Delhi.
3. Shri K.N. Mishra,
Steno-typist/Stenographer,
Office of the Director,
Defence Materials & Stores Research
& Development Establishment,
Post Office DMSRDE, Kanpur-13.
4. Shri S.K. Trivedi,
Steno-typist/Stenographer
Office of the Director,
Defence Materials & Stores Research
& Development Establishment,
Post Office DMSRDE, Kanpur-13. Respondents
5. Shri Daulat Ram,
Steno-typist/Stenographer
Office of the Director,
Defence Materials & Stores Research
& Development Establishment,
Post Office DMSRDE, Kanpur-13. Respondents

(By Advocate: Shri M.K. Gupta)

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O R D E R

Dr. Jose P. Verghese, Vice-Chairman (J)

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The petitioner in this case is seeking the relief of quashing the seniority list of 6.7.1989 on the ground that many of his juniors have been shown above him in the impugned seniority list. Petitioner is also challenging the Office Memoranda dated 8.8.1975 and 8.4.1976 issued by the Ministry of Defence and annexed as Annexure 2 & 3 to the O.A. respectively. By the said O.M. the respondents have relaxed the requirement of speed of 100 w.p.m. to 80 w.p.m. and the said order was to be effective w.e.f. 1.1.1973. The petitioner submits that these two office memoranda being administrative instructions, the respondents could not have issued the said instructions with retrospective effect and it is for this reason those juniors, who took advantage of these illegal office memoranda happened to be placed above the petitioner who was recruited at the initial stage in the year 1973 with the qualifying required speed of 100 w.p.m.

2. A number of petitions were heard at different times by various Benches of this Tribunal and an appeal from three decisions of different Benches of this Tribunal including the one of the Bangalore Bench as well as the Hyderabad Bench were heard together by the Hon'ble Supreme Court on 17.10.1994. The Hon'ble Supreme Court was dealing with these three decisions of different Benches of this Tribunal and reference to three seniority lists, circulated by letters dated 15.10.1987, 11-16/8/1989 and 3/10/1989, has been perused by the Supreme Court.

Thereafter, the Hon'ble Supreme Court passed the final order on 17.10.1994 disposing of the appeal and stating that impugned order of the Tribunal is unexceptionable and no fault can be found with the same, for the reason that the Tribunal had rightly quashed the impugned notification on the ground that no administrative order can be made operative with retrospective effect. Thereafter regarding the relief that could be granted to the petitioners in the said petitions, it was stated by the Hon'ble Supreme Court that the Tribunal had also rightly declined to give relief to the petitioners on the ground that the petitioners approached the court in the year 1991. It was also stated that the Tribunal had rightly come to the conclusion that it would do more harm than good by reversing the process by two decades. In the circumstances, Supreme Court did not grant any relief by disturbing the seniority list presented before the court.

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3. The order dated 17.10.1994 passed by the Hon'ble Supreme Court is placed hereinbelow:-

"Before the Central Administrative Tribunal, Bangalore, the petitioners challenged the Government of India, Ministry of Defence order dated April 8, 1976 wherein the eligibility qualification for appointment to the post of Stenographer was relaxed with effect from January 1, 1973. The tribunal quashed the order on the short ground that no administrative order can be made operative with retrospective effect. The order of the tribunal is unexceptional and no fault can be found with the same. The tribunal, however, declined to give relief to the petitioners on the ground that the petitioners approached the court in the year 1991. The Tribunal came to the conclusion that it would do more harm than good by reversing the process by two decades. We see no ground to interfere with the impugned judgement of the tribunal. The Special Leave Petitions are disposed of."

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4. The counsel for the petitioner further submitted that even though the petitioner in the said cases approached this Tribunal in the year 1991, the present petition has been filed in the year 1989. We have considered the entire aspects of the case and we find that the present petition being filed in 1989 makes no difference to the observation made by the Hon'ble Supreme Court since the said observation was with reference to the same seniority list namely the one issued on 3.10.1989 which is the subject matter of the dispute in this case as well.

5. In the circumstances, we would follow the decision of the Hon'ble Supreme Court above cited and since the above said notifications had already been set aside by the different benches of this Tribunal, we dispose of this OA by rejecting the relief of setting aside the seniority list circulated on 3.10.1989.

With this, this OA is disposed of with no order as to costs.

N.Sahu

(N.Sahu)
Member (A)



(Dr. Jose P. Verghese)
Vice-Chairman (J)

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