

Central Administrative Tribunal
Principal Bench, New Delhi.

OA-2615/96
MA-2583/96

New Delhi this the 11th day of July, 1997.

Hon'ble Dr. Jose P. Verghese, Vice-Chairman(J)
Hon'ble Sh. S.P. Biswas, Member(A)

1. Shri A.K. Jain,
S/o Shri Kashi Ram Jain,
R/o A-2/65-C, Lawrence Road,
Near Jain Mandir,
New Delhi-35.

2. Sh. Shiva Kumar Sharma,
S/o Sh. J.P. Sharma,
R/o C-596, LIG Flats,
East Loni Road,
Delhi-93.

3. Sh. J.K. Vats,
S/o late Sh. J.D. Sharma,
R/o D5-544, Gali No.5,
Ashok Nagar, Shahdara,
Delhi-93.

..... Applicants

(through Sh. K.P. Dohare, advocate).

versus

1. Govt. of NCT of Delhi, through
the Chief Secretary,
5, Sham Nath Marg,
Delhi-54.

2. The Secretary,
Flood Control,
Govt. of NCT of Delhi,
5/9, Under Hill Road,
Delhi-54.

3. The Chief Engineer,
Irrigation & Flood Control,
Govt. of NCT of Delhi,
4th Floor,
ISBT Building,
Kashmiri Gate,
Delhi-6.

..... Respondents

(through Sh. Vijay Pandita, advocate)

ORDER(ORAL)
Hon'ble Dr. Jose P. Verghese, Vice-Chairman(J)

This O.A. has been filed by three applicants
whose name appeared in the seniority list of 1983 at
S.No.121, 108 & 119 respectively. Their complaint is

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that their seniority has been changed by an order dated 6.12.91 and the position has been substantially changed. The applicants in December, 1991 itself made a representation to the respondents. In the normal circumstances as no reply has been given to the said representation, the applicants should have approached this Tribunal latest by July, 1992. Explaining the delay, the ld.counsel for the applicants has brought to our notice para 4.10 of the O.A. wherein it is stated that the applicants have approached respondent No.2 and the respondent No.2 is said to have told that they will have to wait till the decision of the pending case filed by one Sh. Bhika Ram and they assured that the same decision would be applicable to this case as well. In reply to the said O.A., the answer of the respondents was that the contents of the para admitted and rest of the para is a matter of record. In view of this, especially as there is no specific denial of the averments made in the O.A., we will have to take it that the respondents waited for the decision in the case of Bhika Ram which finally came in the year 1995. Thereafter, they filed a representation to which the respondents replied vide Annexure A-1 which happened to be an immediate cause based on which they approached this Tribunal for relief.

The contention of the learned counsel for the applicants is that the seniority list which was finalised in accordance with the rules after issuing the provisional seniority list, the position of the

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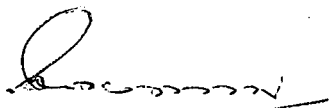
applicants in the said seniority list should be protected, since by afflux of time they have obtained an enforceable right to remain at the position where they have been shown in the final seniority list. Thereafter the respondents on its own altered the seniority list for the reasons stated in the order itself in the year 1991, admittedly without notice to the applicants. Notice communicated on 6.12.91 only affected Junior Engineers appearing in the seniority list beyond Serial No.202. The reliefs sought in this application is to quash the impugned seniority list as well as the order at Annexure A-1 and restore the seniority list of 20.8.1983. By doing so, we would be required to interfere with the enforceable right of some 11 other Junior Engineers who have been shown above the applicants and the applicants contend that they were all juniors to them. It is also a fact that none of them have been arrayed as respondents in this case. In the circumstances, the only order that we can pass is that the respondents shall give notice to these three applicants as well as any other person that would be affected. Notice should be given with sufficient time to explain if they have any objection before making any change in the seniority list of 1991. We make it clear that we are not quashing the said seniority list rather only direct them to give notice and in response to the notice when objections are received and considered by the respondents in favour of the applicants then appropriate relief should be given to


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them. It goes without saying that if applicants are found they are justified in their objection, appropriate consequential relief shall be granted to them.

This process of giving notice to the applicants and decide the matter shall be done as expeditiously as possible preferably within a period of three months and any promotion made during this period shall be subject to the out come of this O.A.

With the aforesaid observations, this O.A. is disposed of. No costs.


(S.P. Biswas)
Member (A)


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

/vv/