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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1527/1997

New Delhi, this 17th day of July, 1998

Hon'ble Shri T.N. Bhat, Member (J)
Hon'ble Shri S.P. Biswas, Member (A)

Shri Chuni Lal
400(FF), Indira Vihar, Delhi-110 009 .. Applicant
(By Advocates Shri V.S.R.Krishna)

versus

Union of India, through

1. Secretary
Ministry of Finance
North Block, New Delhi
2. General Manager
Govt. of India Mint
D-2, Sector 1, Noida, Ghaziabad
3. Vinay Kumar Vaid
Govt. of India Mint, Noida, UP
4. S.K. Bayana
Govt. of India Mint, Noida, UP, Respondents

(By Advocate Shri R.V. Sinha - not present)

ORDER

Hon'ble Shri S.P. Biswas

The basic issue that falls for determination in this Original Application is as under:

What would be the position of seniority of employees appointed as a result of earlier selection vis-a-vis those appointed through subsequent selection?

The applicant, presently Junior Technician (Mechanical) [JT(M)] for short], is aggrieved by A-1 order dated 16.8.96 by which his representation dated 13.12.95 has been rejected by mentioning that status-quo in the revised seniority position cannot

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be altered. In this A-1 order, the respondents have indirectly communicated that November, 1994 seniority placing the applicant at Sl.No.3 below respondents No.3 and 4 cannot be amended. He is also aggrieved by the official respondents' action in promoting R-3 and R-4 without first settling his seniority position in the cadre of JT(M). Consequently, the applicant seeks relief in terms of A-5 Memorandum and restoration of A-7 seniority list dated 17.12.92.

3. The aforementioned claim of the applicant is based on his endorsement on A-5 Memorandum dated 5.1.89 wherein he has accepted respondents' offer of seniority to him with effect from 16.5.88. This was the offer against which he had given his acceptance. To put it briefly, as per A-7 seniority list dated 17.12.92, applicant's position was at Sl.No.2 as against R-3 and R-4 who were at Sl.No.8 and 9 respectively. Applicant also claims to have been confirmed with effect from 31.12.92 by Annexure A-8. His claim is also based on November, 1994 seniority list, position of which is indicated in the table given below:

Sl. No.	Name	Date of appointment in Govt. service	Date of interview/employment for the post of JT(M)
1.	Chuni Lal(applicant)	2.1.88	24.11.87
2.	Vinay Kumar Vaid(R-3)	20.5.88	Feb. 1988
3.	S.K. Bayana (R-4)	8.7.88	Feb. 1988

4. Applicant would further contend that in terms of acceptance of offer to the post of JT(M), it was very categorically stated that he would be given seniority in that post w.e.f. 16.5.88. Respondents should have in a bonafide manner given the applicant seniority of 16.5.88 and should not have disturbed the earlier seniority of 17.12.92.

5. Applicant had also brought the position to the notice of official respondents vide his representation dated 20.9.96 indicating therein the factual position of seniority list which was framed on the basis of date of interview/selection panel of 24.11.87. He has also emphasised that seniority so determined could not be adversely changed without giving any prior notice.

6. Respondents have submitted that the applicant was interviewed against one reserved (ex-service man) post of JT(M) on 24.11.87. On the basis of the recommendations of the said selection, he was placed in the panel at Sl.No.2. Since there was only one vacancy at the relevant time, candidate at Sl.No.1 in the panel was appointed. However, subsequently in April, 1988 a review was undertaken and the possibility of appointing a candidate already included in the panel was examined so that the need for calling fresh nominations could be avoided to meet the requirement of additional hand. As a result of this, Shri Kishore Lal who was kept in the panel by the earlier selection was appointed as JT(M) w.e.f. 16.5.88. Pursuant to this,

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applicant's representation was examined and he was also offered appointment on 25.11.88 and appointed as JT(M) with effect from 5.1.89 but with the stipulation that his seniority would count from retrospective date of 16.5.88, i.e. the date on which Shri Kishore Lal was appointed.

7. The Official respondents have taken the stand that R-3 and R-4, though interviewed in February, 1988, joined the post on 30.5.88 and 8.7.88 respectively. Whereas the applicant, though given the offer of appointment on 25.11.88, actually joined on 5.1.89 and hence persons who joined earlier were given due seniority accordingly in November, 1994. In other words, as per respondents the date of joining is crucial for determination of seniority. It is surprising to note that this submission is in contradiction to the details in para 5 of their own counter reply filed on 11.9.97.

8. The rule relating to seniority position as stipulated in OM No. 9-11/55-RPS dated 22.12.59 is as under:

"4. Direct Recruits - Notwithstanding the provisions of para 3 above, the relative seniority of all direct recruits shall be determined by the order of merit in which they are selected for such appointment, on the recommendations of the UPSC or other selecting authority, persons appointed as a result of an earlier selection being senior to those appointed as a result of subsequent selection".

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9. Based on the above rule, applicant who was empanelled for the post of JT(M) earlier shall stand senior to R-3 and R-4. The application is, therefore, allowed with the following directions:

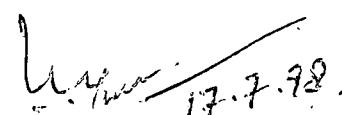
(i) Order dated 16.8.96 is quashed;

(ii) Official respondents shall recast the seniority list of the post of JT(M) keeping in view the memorandum dated 5.1.89 (A-5), seniority list circulated on 17.12.92 and rules applicable in such cases and finalise the list accordingly after giving notice to the persons concerned likely to be affected. This should be done within a period of three months.

(iii) There shall be no order as to costs.


(S.P. Biswas)

Member (A)


17.7.92
(T.N. Bhat)

Member (J)

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