

(19)

Central Administrative Tribunal  
Principal Bench

O.A. No. 2557 of 1997

New Delhi, dated this the 8<sup>th</sup> December, 1999

Hon'ble Mr. S.R. Adige, Vice Chairman (A)  
Hon'ble Mr. Kuldip Singh, Member (J)

S/Shri

1. Umesh Kumar Sharma,  
S/o Shri M.C. Sharma,  
Asst. Radio Mechanic Operator,  
Parliament Works Elec. Division,  
Parliament House  
R/o F-39, Moti Bagh, New Delhi-110021.

2. Arvind Kumar,  
S/o late Shri Shobha Ram Tyagi,  
Asst. Radio Mechanic Operator,  
R/o 603, Sector 7, M.B. Road,  
New Delhi-110017.

3. Kalika Prasad Upadhyaya,  
S/o late Shri Gaju Upadhyaya,  
Asst. Radio Mechanic Operator,  
Parliament House,  
New Delhi-110001.

(By Advocate: Shri K.P. Dohare)

... Applicants

Versus

Union of India through

1. Secretary,  
Ministry of Urban Affairs & Employment,  
Nirman Bhawan,  
New Delhi-110011.

2. Chief Engineer Electrical,  
Vidyut Bhawan,  
Shankar Market,  
New Delhi-110001.

3. Superintending Engineer  
(Coordination Electrical),  
4th Floor, A-401, Y Shape Building,  
I.P. Estate,  
New Delhi-110002.

4. Shri Harbendra Singh,  
Asst. Radio Mechanic Operator,  
through the Chief Engineer,  
(Coordination Electrical),  
4th Floor, Y Shape Building,  
I.P. Estate,  
New Delhi-110002.

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5. Shri M.K. Seth,  
Radio Mechanic Operator,  
C/o Superintending Engineer,  
Coordination Electrical,  
4th Floor, A-401, Y Shape Building,  
I.P. Estate,  
New Delhi-110002.

... Respondents

(By Advocate: Shri D.S. Mahendru)

ORDER

BY HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

Applicants impugn the seniority list dated 13.1.97 (Annexure A-1) issued by respondents and seek re-fixation of seniority as per the respective positions in the merit list assigned by the Selection Committee based on the interview/ test held on 7.10.83 and consequent promotion as Radio Mechanic Operator from the date Shri M.K. Seth was so promoted with all consequential benefits.

2. Admittedly, as a result of selection held for the post of Asstt. Radio Mechanic Operator by a duly constituted Selection Committee on 7.10.83, applicants were selected as ARMO and were offered appointment as such by order dated 9.12.83. While applicants contend that the merit assigned by the Selection Committee on the basis of interview /test held on 7.10.83 was as follows:

- 1) S/ Shri U.C.Sharma (applicant No.1)
- 2) Arvind Kumar (Applicant No.2)
- 3) Kaika Pd. Upadhyay (applicant No.3)
- 4) Harvendra Singh (Respondent No.4)
- 5) M.K.Seth (Respondent No.5)

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Respondents state that the aforesaid merit of the 5 selected candidates as shown by applicants, was based on the chronological order of the despatch number of the letters offering appointment as AMOs.

3. Applicants' grievance is that by order dated 14.10.94 respondents have promoted Shri M.K.Seth to the post of AMO ignoring their own claims, all of them being senior to him (Respondent No.5) in the seniority list based on the merit assigned by the Selection Committee on 7.10.83 at the time of selection. A copy of the relevant recruitment rules has been filed (Annexure-A-5), a perusal of which reveals that the post of AMO is a non-selection post to be filled 50% by direct recruitment and 50% by promotion. Against the 50% promotion quota, AMOs with 5 years' service in the grade are eligible subject to their qualifying in the departmental test and promotion is to be recommended by a DPC.

4. We have heard both sides and considered the matter carefully.

5. We note that respondents had issued a seniority list of AMOs dated 2.2.84 as on 1.1.84 (Annexure-I) in which Shri M.K.Seth was shown as senior to applicants. All concerned were requested to point out discrepancies, if any, within 1 month, and in case no discrepancy was pointed out the same was assumed to be correct. Copies of the aforesaid seniority list were marked to concerned officers and also to the Secretary AI

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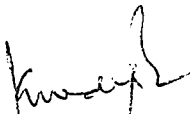
CPWD Union. Admittedly none of the applicants represented against their position vis-a-vis that of Shri M.K.Seth in that list. It is clear that applicants' cause of action thus arose with the issuance of that list on 2.2.84, but they did not represent against the same. On 20.9.88, respondents issued another seniority list of AMOs as on 1.1.88 (Annexure-II) in which also Shri M.K.Seth was shown as senior to applicants. Copies of that list were also sent to all concerned, including the General Secretary, CPWD Workers' Union, but against that seniority list also, applicants did not file any representation. Thereafter respondents issued yet another seniority list of AMOs vide OM dated 31.8.92 (Annexure-III) as on 31.12.91 in which also Shri M.K.Seth was shown as senior to applicants. Copies of this list were marked to concerned units and also to the General Secretary, CPWD Employees Union and it was also ordered to be displayed on the notice board, but none of the applicants filed any representation in regard to their seniority with respect to this list either. In R.C. Samanta & Ors Vs. UOI & Ors-JT 1993 (3) SC 418, the Hon'ble Supreme Court has held that the delay deprives a person of the remedy available in law and the person who has lost his remedy by lapse of time loses his right as well as.

6. In the present case, the failure of respondents to agitate their grievance despite the fact that their cause of action arose with the issuance of seniority list dated 2.2.84, followed by another seniority list dated 20.9.88, and thereafter yet another seniority list dated 31.8.92, makes it clear that their claims are



squarely hit by the Hon'ble Supreme Court's ruling  
in R. C. Samenta's case (Supra) .

7. In the result, this O.A is dismissed. No costs.

  
( KULOIP SINGH )  
MEMBER(J)

  
( S. R. ADIGE )  
VICE CHAIRMAN(A)

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