

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. No. 767 of 1997 Decided on: 4.5.98

Diwan Chand Sharma & Ors. Applicant(s)

(By Advocate: Shri Shyam Babu)

VERSUS

Govt. of NCT & Ors. Respondents

(By Advocate: Shri Anoop Bagai)

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HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J)

1. To be referred to the Reporter or not? YES
2. Whether to be circulated to other Benches of the Tribunal? NO

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

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No. 767 of 1997
New Delhi, dated the 4th May, 1998

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HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J)

1. Diwan Chand Sharma (D/2606)
S/o late Shri Bhajan Lal Sharma,
R/o DA/41D Hari Nagar,
New Delhi-110064.
2. R.K. Shukla (D/2596)
S/o Shri Shankar Shukla,
R/o Qr. No. 48, P.S. Geeta Colony,
Delhi.
3. B.S. Khatana (D/457),
S/o late Shri S.S. Khatana,
R/o 1131/3, Rajiv Nagar, Gurgaon
Haryana
4. Jai Singh (D/2568)
S/o late Shri Jagdish Ram,
Gurgaon, Haryana.
5. Dharampal (D/2597),
S/o Shri Surat Singh,
R/o BZ-25, Lokesh Park,
Near Subzi Mandi, Najafgarh,
New Delhi.
6. Joginder Singh (D/2590),
S/o Shri Charan Das,
R/o Q. No. C-11, P.S. Rajouri Garden,
New Delhi. APPLICANTS

(By Advocate: Shri Shyam Babu)

VERSUS

1. Govt. of NCT, Delhi through
its Chief Secretary,
5, Sham Nath Marg,
Delhi.
2. Commissioner of Police, Delhi,
Police Headquarters,
I.P. Estate,
New Delhi.
3. Sr. Addl. Commissioner of Police (Admn.)
Police Headquarters,
I.P. Estate,
New Delhi. RESPONDENTS

(By Advocate: Shri Anoop Bagai)

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JUDGMENT

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

Applicants impugn the integrated seniority list of confirmed S.I. of Police (Executive) issued by respondents on 20.9.96 (Ann. G) and seeks counting of their service rendered by them in their parent dept. from the date of their substantive appointment with all consequential benefits including next higher promotion.

2. Applicants were appointed/promoted as SIs in BSF/CRPF on substantive basis vide details at Ann. B. Thereafter they came on deputation to Delhi Police in the public interest as SIs and were eventually absorbed as such on dates shown against their names. Applicants assert that they are entitled to the substantive service rendered by them as SIs in BSF/CRPF for reckoning their seniority as SIs in Delhi Police.

3. We have heard applicants' counsel Shri Shyam Babu and respondents' counsel Shri Anoop Bagai.

4. Following the Hon'ble Supreme Court's judgment in K. Madhavan & Anr. Vs. UOI & ors/ AIR 1987 SC 2291 the CAT, PB in its judgment dated 2.3.93 in OA No. 470/91 allowing the prayer made by a similarly situated SI Shri Antony Mathew and directed respondents to accord him seniority as SI in Delhi Police taking the date of his appointment as SI in

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BSF as substantive basis. SLP filed against that judgment was dismissed by the Hon'ble Supreme Court on 22.4.94.

5. Meanwhile SIs Roopal Lal and K.S. Sandhu had filed OA No. 414/94 and No. 415/94 respectively seeking the same relief granted in Mathew's case (Supra). Even after noting the fact that the SLP filed by respondents in Hon'ble Supreme Court had been dismissed, the CAT, P.B. by its judgment dated 28.10.94 dismissed both OAs not only on grounds of non-joinder of parties and delay and laches, but also on merits. Against that judgment SLPs No. 1834-1835/94 were filed. On 9.8.95 the Hon'ble Supreme Court, in the aforesaid SLPs after hearing both parties passed the following order:

" It appears that an anomalous situation has been created by giving Shri Antony Mathew seniority in the Delhi Police w.e.f. 1.10.84 when his date of absorption in Delhi Police as SI in 19th June, 1987. It appears that the CAT allowed the Petition, filed by Shri Mathew, by the said judgment and he was given seniority w.e.f. 1.10.84 which is in substantive appointment of Shri Mathew in BSF. The respondent challenged the said order of CAT in SLP. But said SLP was dismissed on 22.4.94. The Ld. SG appearing for the respondent has submitted before us that although it is unfortunate that anomalous situation has been created by giving Antony Mathew, the seniority, who is admittedly junior to the petitioner, but such anomaly is the result of the decision of CAT and the dismissal of SLP filed by the respondent. He has submitted that the respondents will file a Review Petition before this Court against the dismissal of the SLP in

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the case of Antony Mathew so that this Court may take into consideration that decision and also the impugned decision of the CAT in this case, so that a uniformity is maintained and all the conflicts are resolved. The proposed RP may be filed within a period of 3 weeks from today and will be placed alongwith this matter for directions before the appropriate Bench."

6. Neither side showed us any final orders of the Hon'ble Supreme Court on SLPs No. 1834-1835/94.

7. However, in Review Petition filed by Delhi Administration bearing R.P. No. 1840-1850/95 seeking review of the judgment in Mathew's case (Supra) a three Member Bench of the Hon'ble Supreme Court passed the following order on 1.2.96.

" Apart from the fact that the petitions are delayed by 444 days, even on merits we see no reason to entertain these petitions. Hence the Review Petitions are dismissed."

8. Meanwhile following the judgment in Mathew's case (Supra) O.A. No. 1444/91 Sunder Singh Vs. Commissioner of Police, Delhi and Ors. was allowed by CAT, PB judgment dated 26.7.94 permitting him to count the date of his substantive appointment as Constable in BSF towards seniority and eligibility for promotion in Delhi Police. Again in O.A. No. 808/90 & 3 other connected O.A.s, all disposed of by common judgment dated 28.5.97, CAT, PB has granted the relief prayed for and quashed O.M. dated 29.5.86 relied upon by respondents, and directed them to count the period of regular service rendered by these applicants towards seniority in Delhi Police and refix their



seniority accordingly with consequential benefits including consideration for promotion to higher posts. Nothing has been shown to us to suggest that the aforesaid judgments have not become final and we as a Coordinate Bench of the Tribunal are bound by the same.

9. More importantly the Hon'ble Supreme Court's order dismissing the SLP challenging the CAT, PB judgment in Mathew's case (Supra) and the order dismissing the RP seeking review of Mathew's judgment (Supra) makes it clear that the matter is no longer res integra.

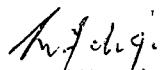
10. In view of the above, there are no good reasons to deny applicants the relief they pray for. The O.A. succeeds and is allowed. The impugned seniority list dated 20.9.96 to the extent that it affects the placement of the applicants before us, and to that extent alone is quashed and set aside and respondents are directed to refix the seniority of the applicants in the seniority list after taking into account the period of substantive service put in by applicants in BSF/CRPF as SIs before they came on deputation, to be

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implemented within three months from the date of receipt of a copy of this order, with consequential benefits in accordance with rules and instructions. No costs.



(MRS. LAKSHMI SWAMINATHAN)
MEMBER (J)



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

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