

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

OA No. 781/97

New Delhi: this the 21st day of DECEMBER, 2000

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

HON'BLE DR. A. VEDAVALLI, MEMBER (J)

1. Shri I.P. Dhawan,
S/o Shri Kedar Nath,
A-5, B-147-A, Janakpuri,
New Delhi.

2. Sh. Ramesh Sagar,
S/o Shri Satnam Dass,
R/o S-1/71, Old Mahavir Nagar,
New Delhi.

3. Sh. S.S. Dahiya,
S/o Shri Zile Singh,
R/o Vill. & PO Piple,
Distt. Sonapat,
Haryana

.....Applicants.

(By Advocate: Sh. Jog Singh with Shri S.C. Luthra)

Versus

1. Govt. of NCT of Delhi
through its Secretary,
Home,
5, Sham Nath Marg,
Delhi-54

2. IG (Prisons),
Prisons Head Quarters,
Tihar,
New Delhi-64

3. S/Shri Ved Prakash

4. Smt. Meena Lookhar.

5. Vinod Kumar.

6. Ms. Ashwani Kumari.

7. Jagdish Singh.

8. Sher Singh Meena.

9. Mahabir Singh-II

10. Ram Partap Meena.

11. Ashok Kumar Rawat

All working as Asstt. Superintendents in
Central Jail and Service to be affected
through R-No. 2.

.....Respondents.

Shri Rajender Pandita for official respondents.

Shri P.L. Mimroth for Respondent No. 3

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S.R. Adige, VC(A):

Applicants seek seniority as Assistant Superintendent (Jail) w.e.f. 19.6.86 in terms of Annexure-A4 order of even date, with consequential benefits.

2. Heard both sides.

3. A perusal of the aforesaid Annexure-A4 order dated 19.6.86 makes it evident that the aforesaid appointments were limited to the period till the vacancies were filled by regular incumbents, and the appointees would not be entitled to seniority. Applicants were eventually absorbed permanently as Assistant Superintendent (Jail) vide order dated 31.7.92 (Annexure-A13), and their seniority as Asstt. Supdt. (Jail) has been computed from that date.

4. Applicants themselves admit in the OA that the appointments made by aforesaid order dated 19.6.86 was in relaxation of the rules. In the Direct Recruits' case JT 1990 (2) SC 264 the Hon'ble Supreme Court has held that seniority from the date of appointment would be admissible under Proposition 'A' where the appointment itself is in accordance with the rules. Even if the rules permit relaxation, it cannot be construed to mean that appointments made in relaxation of those rules have been made in accordance with the rules.

5. Proposition 'A', the corollary to proposition 'A' and Proposition 'B' have been further amplified

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by a 3 Judge Bench of the Hon'ble Supreme Court in State of West Bengal & Ors. Vs. Aghore Nath Dey & connected cases 1993(24) ATC 932 wherein it has been held that proposition 'B' in the Direct Recruits' case (supra) would be attracted where the initial appointment was not made for a limited period mentioned in the body of the appointment order itself.

6. As in the present case, applicants' initial appointment as Asstt. Supdt. (Jail) by order dated 19.6.86 was specifically limited to the period till regular incumbents became available, notwithstanding that they worked continuously as Asstt. Supdts. (Jail) till they were permanently absorbed vide order dated 31.7.92, they would be hit by the corollary to Proposition 'A' of the Direct Recruits' case (supra) and would therefore not be entitled to count their seniority from 19.6.86.

7. The DA therefore warrants no interference. It is dismissed. No costs.

A. Vedavalli
(DR. A. VEDAVALLI)
MEMBER (J)

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

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