

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

(3)

OA No.370/94.

New Delhi, this the 27th day of April, 1994.

SHRI J.P.SHARMA, MEMBER(J).

SHRI S.R.ADIGE, MEMBER(A).

Shri Arvind Singh Rawal,
Son of Shri Krishan Kumar Singh,
aged 31 years,
resident of 64/3, Sappar Enclave,
Chopra Shop, Garhi Udhampur,
Jammu & Kashmir,
working as Assistant Surveyor of Work in the office
of the Chief Engineer, Udhampur Zone,
Post Office Garhi, Udhampur,
Jammu & Kashmir.

...Applicant

By advocate : Shri U.S.Bisht.

VERSUS

1. Union of India, through
Secretary, Ministry of Defence,
Sena Bhawan, New Delhi-110011.
2. Engineer-in-Chief's Branch,
Kashmir House, DHQ PO,
Rajaji Marg, New Delhi-110011.
3. Secretary,
Union Public Service Commission,
Dholpur House, Shahjahan Road,
New Delhi.
4. Secretary,
Railway Board, Rail Bhawan,
New Delhi.
5. Shri V.P. Gupta,
SW, Office of Chief Engineer (N), Bombay,
Maharashtra.
6. Shri B.N. Bhandare, SW,
Office of Chief Engineer,
SE Falls, Shillong, Meghalaya. ... Respondents

O R D E R

SHRI J.P.SHARMA:

This application under section 19 of the
Administrative Tribunals Act, 1985 has been filed by
the applicant alleging the grievance of assignment of

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wrong seniority to him in the roster of Assistant Surveyors of Works (ASW) on his qualifying Engineering Service Examination in 1985. The applicant prayed for a direction to the respondents to assign seniority to the applicant in the roster of ASW with effect from the date of completion of recruitment of Engineering Service Examination, 1985, i.e., from the date of announcement of result. Subsequently, the applicant moved MA 993/94 for additing an alternative relief that he should be assigned seniority from the year 1986 in the grade of ASW as a consequence of allotment of his name to MES department by the Railway Board on 24-12-86. In this MA, the applicant has also prayed for addition of para 4.11 in the facts alleged in the original application that other successful candidates in the said examination allotted to railways have been given seniority from the year 1986 and in support of this, he has also annexed Ministry of Defence Memo dated 30-4-87. This is an offer of appointment to the applicant for recruitment to the post of ASW in Military Engineering Service.

2. We heard the learned counsel Shri U.S. Bisht at length. The applicant was declared successful in the Engineering Service Examination, 1985 and he was recommended by UPSC as a result of which by the order dated 2-7-86, he was allotted to MES and he joined the Military Engineering Service as ASW, Jaipur Zone, on 29-12-87. The applicant has been assigned seniority along with other similarly allotted candidates to MES at serial no.97 of the seniority list issued by memo of 9-6-92 and date of seniority as ASW is shown as 29-12-87 the date from which the applicant joined. The

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method of recruitment for filling up the vacancies of ASW in MES is 50% by promotion and 50% by direct recruitment through Engineering Service Examination through the UPSC. The learned counsel has relied on the memo dated 24-6-78 where certain instructions have been issued and it is laid down that when recruitment in a cadre is made by more than one method, then the date of publication/announcement of results would be treated as completion of selection process of direct recruitment through examination conducted by UPSC. On this basis, the applicant has claimed that he be assigned seniority wef 2-7-86 or 19-7-86 when the result was published. It is argued by the learned counsel that the seniority list published by the respondents on 9-6-92 is not in confirmity with the above memo of 24-6-78. In fact, the seniority in a cadre is to be taken as regards the direct recruits are concerned from the date of joining the service unless and until there are statutory rules or administrative instructions to the contrary. The O.M. of 1978 relied by the learned counsel is not on the point of counting seniority from the date of publication of result. The length of service in a particular cadre or grade after joining that service will reckon the seniority of such an incumbent in that grade or cadre. Merely because the results have been published does not give a right to claim seniority from the date of publication of result. The respondents have to adopt the procedure as has been observed for assigning the seniority to the direct recruits in the service. The learned counsel could not show any authority, rule or administrative instruction to substantiate the claim of the applicant

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that he should be assigned seniority from the date of publication of result. A perusal of the seniority list shows that all the persons who were selected as a result of Engineering Service Examination, 1985 and allotted to MES have been assigned seniority according to the merit in that examination, ~~as~~ the applicant has no grievance in that respect. The grievance of the applicant appears to be that the promotees in the 50% quota ~~should~~ have also been promoted to the Group 'A' Service as Surveyor Assistant Grade I holding degree in Civil Engineering from a recognised university with 5 years regular service in the grade. The respondents have assigned seniority to promotees and direct recruits as per the recommendations of the DPC in case of promotees and the date of joining of the direct recruits in the service. The ASWs selected as a result of recommendations of the DPC from the last day of the year of vacancies as per Ministry of Defence O.M. dated 20-8-1990. Those who have been selected against the vacancies of 1986 and 1987 were made to count their seniority for the purpose of their promotion to the next grade only w.e.f. 31-12-86 and 31-12-87, as the case may be.

3. In view of the above facts and circumstances, we don't find any *prima facie* case of the applicant for adjudication. The applicant has been rightly assigned seniority on the basis of joining the service as ASW w.e.f. 29-12-87. A person cannot take berth in a particular service before the date he becomes the member of the service. The applicant has become the member of the service on 29-12-87. The applicant cannot draw any analogy that those candidates who

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passed the Civil Service Examination, 1985 and have been assigned to different other organisations like railways etc. As the seniority is separately maintained for those organisations.

4. The application, therefore, is summarily dismissed under Section 19, sub-clause (3) of the Administrative Tribunals Act, 1985. No costs.

Adige
(S.R.ADIGE)

MEMBER(A)

J. Sharma
(J.P.SHARMA)

MEMBER(J)

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