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Central Administrative Tribunal, Principal Bench

C.P.No.457 of 2000
(in O.A.No.1333 of 1996)

New Delhi, this the 15th day of February, 2001

Hon'ble Mr.V.K.Majotra, Member (Admnv)
Hon'ble Mr.Shanker Raju, Member(J)

Shri Om Prakash, s/o Sh.Baraf Singh, Aged
about years. r/o Vill & P.O :- Dayalpur,
Dist. Faridabad (Haryana). - Petitioner

(By Advocate Shri S.S.Tiwari)

Versus

Sh.Kalyan Chand, Regional Provident Fund
Commissioner (Haryana), Bhavishya Nidhi
Bhawan, Sector 15-A, Faridabad-121007. - Respondent

(By Advocate Shri V.S.R.Krishna)

O R D E R

By V.K.Majotra, Member(Admnv) -

OA 1333/1996 was decided on 31.3.2000
(Annexure-CCP-I) with the following directions:-

"(i) The respondents shall revise the seniority list of Head Clerks as on 31.12.1993 to assign correct seniority to the applicants with effect from their regular promotion in the grade, that is with effect from 15.1.1988 and 1.12.1989, respectively. They shall also be entitled to all consequential benefits flowing from it;
(ii) Necessary action as provided above shall be taken within three months from the date of receipt of a copy of this order."

2. The petitioner has stated that the respondents instead of assigning correct seniority to the petitioner in compliance of the above orders assigned him seniority below his junior Shri L.C.Batra, who was promoted on regular basis on 27.5.1993. The petitioner made a representation on 18.7.2000 to the respondents against the seniority assigned to him vis-a-vis Shri Batra. The same was turned down on the ground that Shri L.C.Batra was senior in the UDC cadre which is a feeder cadre. It was explained in Annexure-CCP-III dated 1.8.2000 that officials appearing at serial nos.59 to 66 became senior to the petitioner due to revision of their seniority position in the cadre of UDC which is a feeder cadre for

promotion to the post of Head Clerk and this revision of seniority list was made in accordance with the judgment of the Full Bench of the Tribunal in the case of Ashok Mehta & others Vs. Regional P.F.Commissioner & another, CAT(F.B.)Vol.III 194.

3. In their counter the respondents have stated that in pursuance to the directions of the Tribunal in OA No.1033/1996 the petitioner was accorded correct seniority in the grade of Head Clerks as on 31.12.1993 with effect from 1.12.1989. According to the respondents through this CP the petitioner is seeking a claim of seniority over and above Shri L.C.Batra though no such direction has been given by the Tribunal.

4. We have heard the learned counsel of both sides and perused the record before us.

5. The learned counsel of the petitioner contended that Shri L.C.Batra was reverted from the post of Head Clerk to the post of UDC on 4.12.1989. Thus on 1.12.1989 whereas the petitioner was holding the post of Head Clerk with effect from 1.12.1989 Shri L.C.Batra had been reverted to the post of UDC and on 4.12.1989 he was a UDC and not Head Clerk. Therefore, in the seniority list he could not have been shown higher in seniority list than the petitioner. The learned counsel for the petitioner drew our attention to the case of Ashok Metha (supra) in which it was held that inter se seniority of the promotees should be determined on the basis of their total length of service reckoned from the actual date of promotion made in accordance with the rules and period served on adhoc basis de hors the rules would be ignored. Thus, according to the petitioner in the

seniority list issued on 31.12.1993 he should have been shown senior to Shri L.C.Batra.

6. In the order dated 31.3.2000 in OA 1333/1996 the respondents had been directed to revise the seniority list of Head Clerks as on 31.12.1993 to assign correct seniority to the applicants in the OA with effect from their regular promotion in the grade with effect from 15.1.1988 and 1.12.1989 respectively. In this CP it is beyond the scope and ambit of the Tribunal to examine each and every case to ascertain whether the applicants have been allocated correct seniority. According to the respondents the petitioner has been assigned correct seniority in the seniority list dated 31.12.1993. We shall not be able to examine whether the petitioner has been assigned ^{properly} seniority vis-a-vis the claim of Shri L.C.Batra in the present CP. In case the petitioner has any grievance in the matter of seniority vis-a-vis certain individuals, he can agitate the matter ^h ^{Through} an original application rather than contempt petition. In this view of the matter this CP is dismissed and the notices are discharged.

S. Raju

(Shanker Raju)
Member (J)

V.K.Majotra

(V.K.Majotra)
Member (Admnv)

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