

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.866/2000

New Delhi, this 18th day of September, 2001

Hon'ble Shri Justice Ashok Agarwal, Chairman
Hon'ble Shri M.P. Singh, Member(A)

1. V.S. Bhati
2. Rakesh Sharma
3. S.K. Matta
all working as Dy. Supdt-II
Central Jail, Tihar, New Delhi .. Applicants

(By Shri M.K. Giri, Advocate)

versus

Govt. of NCT of Delhi, through

1. Chief Secretary
5, Shamnath Marg, Delhi
2. Dy. Secretary Home (G)
Delhi
3. Mahavir Singh, Dy. Supdt-I
4. R.D. Bohet, Dy. Supdt.I
5. K.S. Meena, Dy. Supdt-II
(3 to 5 working in Central
Jail Tihar, New Delhi) .. Respondents

(By Shri Rajinder Pandita, Advocate, for R-1 & R-2
Shri Saht Lal, proxy for Shri S.C.Luthra,
Advocate for R-3 to R-5)

ORDER(oral)

By Shri M.P. Singh:

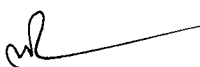
Applicants have filed this OA challenging the Office Memorandum dated 23.3.2000 and praying for directions to the respondents to quash and set aside the seniority list issued vide OM dated 23.3.2000 and to place them above R-3 to R-5 in that list.

2. Applicants have been working as Deputy Superintendent (hereinafter called as 'DS') in Central Jail Tihar, New Delhi and they belong to general category. Their case is that Applicant No.1 and 3 were placed at Sl. No.8 and 9 respectively in the seniority list of Assistant Superintendent (hereinafter called as

(B)

'AS') whereas private respondents were placed at Sl. No.10, 11 and 22 respectively. Applicant No.2 was placed above R-5 in that seniority. However, R-3 to R-5 have been promoted to the post of DS by way of accelerated promotion and have been shown senior to the applicants in the seniority list of DS issued on 23.3.2000. As per the judgement of the Hon'ble Supreme Court in the case of Ajit Singh Vs. State of Punjab, 1996(2) SCALE 526(SC) and UOI Vs. Virpal Singh Chauhan etc., JT 1995(7) SC 231, it is a settled law that "even if a SC/ST candidate is promoted earlier by virtue of rule of reservation/roster than his senior general candidate and the senior general candidate is promoted later to the said higher grade, the general candidate regains his seniority over such earlier promoted SC/ST candidate. The earlier promotion of the SC/ST candidate in such situation does not confer upon him seniority over the general candidate even though the general candidate is promoted later to that category". Since the applicants have been shown senior to R-3 to R-5 in the grade of AS, the seniority list of DS-II is required to be recast accordingly. Therefore, they have filed this OA seeking the aforesaid reliefs.

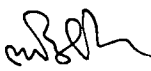
3. Respondents in their reply have stated that DPC considered the applicants' case and recommended their names for promotion to the post of DS-II. However, there was no mention with regard to their placement for the purpose of inter-se-seniority, the final seniority list has been prepared on the basis of their date of joining. Hence, they have been given proper rank in the seniority list of DS-II.

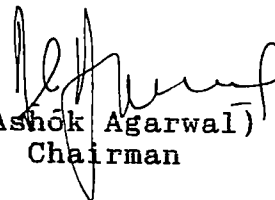


4. Heard the contentions of the rival contesting parties and perused the records.

5. After hearing the learned counsel and perusing the records, we find that the applicants have been shown senior to R-3 to R-5 in the grade of AS. It is because of the accelerated promotion of R-3 to R-5 against the reserved vacancies, that they have become senior to the applicants in the grade of DS-II. In pursuance of the judgements of the Hon'ble Supreme Court in the cases of Ajit Singh Januja and Virpal Singh Chauhan (supra), the seniority of general candidates will have to be recast though they have been promoted on a later date.

6. For the aforesaid reasons, the OA is allowed and the seniority list dated 23.3.2000 is quashed and set aside. Respondents are directed to recast the seniority of DS-II in pursuance of the aforesaid judgements of the Hon'ble Supreme Court within a a period of 3 months from the date of receipt of a copy of this order. No costs.


(M.P. Singh)
Member(A)


(Ashok Agarwal)
Chairman

/gtv/