

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH : NEW DELHI

O.A.No. 1878/89

Date of Decision 5/8/92

Shri J.P. Bhalla ... Applicant

Vs

Union of India & others Respondents

CORAM:

Hon'ble Mr. Justice Ram Pal Singh, Vice-Chairman (J)

Hon'ble Member Shri I.P. Gupta, Member (A)

For the Applicant ... Shri D.C. Vohra, Counsel

For the Respondents ... Shri N.S. Mehta, Counsel

1. Whether Reporters of local papers may be allowed to see the Judgement ?

2. To be referred to the Reporter or not ?

JUDGEMENT

(Delivered by Hon'ble Shri I.P. Gupta, Member (A))

This is an application filed under Section 19 of the Administrative Tribunals Act. The applicant was promoted as Assistant in the Grade IV of the IFS(B) from 28th May, 1959. In 1974 some Assistants in Grade IV of the IFS(B) filed a Writ Petition LCW 565/74 in the Delhi High Court regarding seniority of the directly recruited and the departmentally Assistant titled as P.N. Tandon & Others Vs Union of India. The applicant was not a party to this Writ Petition. In 1980, the applicant and some of his similarly placed colleagues filed a Writ Petition (W.P.No. 2365 of 1980) in the Supreme Court of India regarding seniority of departmentally

promoted and directly recruited Assistants titled as Karam Singh and Others v/s Union of India. The applicant was a party to this Writ Petition.

On 1.11.85 when the Central Administrative Tribunal came into existence, the case of P.N. Tandon v/s Union of India (C.W. 565/74) was transferred to Principal Bench, CAT, New Delhi and C.W. No. 565/74 was titled as T.A. 129/85. On 21.11.86 this T.A. was decided and it was directed that the seniority of the applicants should be fixed according to the length of their continuous officiation in Grade IV of the IFS(B).

2. Consequent upon the aforesaid decision by the Tribunal on 21.11.86, the respondents issued a revised seniority list of Assistants as on 1.2.1986 wherein the name of the applicant was listed at S.No.49. The applicant does not challenge his position in this revised seniority list.

3. On 11.12.87, the Appex Court decided the pending W.P.2365/80 (Karam Singh & Ors. in which the applicant was a party). The extracts from the order are reproduced below :-

During the pendency of this writ petition a similar dispute directed against the seniority list referred to above as also certain other aspects was raised in writ petition No. 565/74 before the Delhi High Court and with the coming into force of the Central Administrative Tribunal Act, the writ petition was transferred to the Central Administrative Tribunal, Delhi bench in T.A.No. 129/65. By judgment dated 21.11.86 the Delhi Bench of the Tribunal has set aside the impugned seniority list and has directed that it should be re-drawn up on the basis of the seniority based upon total length of service including the continuous officiation irrespective of whether the same was ad hoc or temporary. Counsel appearing for the applicant says that the decision was accepted and has also been implemented. In that view of the matter no

direction in the writ petition for quashing of the seniority list or for re-drawing of the seniority list is necessary to be given. We are, however, asked to give a direction that upon the refixation of seniority in accordance with the direction of the Tribunal referred to above, consequential benefit should be available to the appellant. Counsel appearing for the respondents suggests that in calling upon the Union of India, we should indicate that if as a result of the preparation of the seniority list in accordance with the decision and the review of the promotions which would follow as a consequence, promotees in the higher grades are likely to be reverted, such officers may not be reverted and should continue in the higher posts by creating supernumerary posts to the extent as may be necessary. Such a direction appears to have been given by this Court in a similar situation in Narinder Chadha & Ors. vs. Union of India & Ors. 1986 (1) SCR 211. We suggest to government that while complying with the direction for extending the consequential benefits to the appellant upon re-drawing of the seniority list, it should keep this principle in view and give effect to our order. In the case of the petitioner before us who has now retired no final promotion may be granted so that the benefit which would accrue may be worked out. These consequential benefits should be worked out within six months from today.

4. Another O.A. was filed by P.N. Tandon & Ors. v/s Union of India before the Tribunal. On 12.2.88 a decision was given by the Tribunal that the applicants should be considered for promotion to the grade of Section Officer and if found suitable in accordance with the rules, should be given promotion w.e.f. the dates their juniors were so promoted.

5. The respondents issued order dated 12.5.88 (Annexure F) indicating the names of the officers who were promoted to the grade of Section Officer in pursuance of the judgment dated 12th February 1988 in the second case of P.N. Tandon. They quoted in this order the judgment of the Tribunal in the second case of P.N. Tandon and added that 251 officers

of Grade IV have been approved for officiating promotion accordingly in integrated grade II and grade III of IFS(B) from the date shown against their names. In the list of 251 officers so promoted to the grade of Section Officers, the applicant's name figured at S.No.37. The date of promotion was given effect to from 6.9.80. It is seen from this list that upto S.Nos. 103, the date of effect of promotion was 6.9.80 and for the rest subsequent dates from 1983 onwards were given.

6. The applicant has sought further relief that the respondents be directed to revise their order dated 12.5.88 referred to above and the applicant should be promoted from the date his junior was so promoted and arrears of pay and allowances should be given with retrospective effect.

7. The Learned Counsel for the applicant quoted several names who were junior to the applicant according to the revised seniority but promoted prior to 6.9.80. The position indicated by the Learned Counsel of the applicant is given in the table below and his contention was that all of them were junior to the applicant in the revised seniority list :-

<u>S.No./Page</u>	<u>Name</u>	<u>Asstt since</u>	<u>SO since</u>
148/46	Shiman R S	22/1/64	20-6-72
152/46	Biswas K R	9/3/64	20-6-72
162/46	Selveraj P	19/9/62	16/8/73
166/47	Sundaraman M V	5/10/62	16/8/73
169/47	Mehta J M	28/9/62	16/8/73
174/47	Bhatia D S	23/12/63	16/8/73
188/48	Ganapathy M	24/8/64	17/8/74
193/49	Trehan S C	24/8/64	17/6/74
195/49	Patra, Aruradha	5/1/60	17/3/74
198/49	Karray R P	24/8/64	17/8/74
222/50	Mehta V S	24/8/64	22/6/76
228/51	Mathur M S	24/8/64	22/6/76
245/52	Sharma G K	4/1/60	22/6/76
248/52	Chekra G S	31/8/61	22/6/76
251/	Mehta S P	23/12/65	22/6/76
254/53	Kanjalia S P	3/9/64	22/6/76
259/53	Lal, Gulzari	1/6/63	22/6/76
266/53	Khankhup N T	27/10/70	24/8/77

8. The Learned Counsel for the applicant said in a written submission that in the above list Shri G.K. Sharma was his first junior since the applicant was appointed on 28.5.59 as Assistant and Shri G.K. Sharma was appointed as Assistant on 4.1.60 and, therefore, his date of promotion should atleast be from 22.6.76.

9. The Learned Counsel for the respondent contended that according to the earlier seniority list promotions were given and when the earlier seniority list was quashed by the Tribunal, the revised seniority list was drawn but it will be seen from the observations of the Hon'ble Supreme Court in the case of Karam Singh & Ors. that the Court had answered in the affirmative to a query that if as a result of the preparation of the seniority list in accordance with the decisions and the review of the promotions which will follow as a consequence, promotees in the higher grades are likely to be reverted, such officers may not be reverted and should continue in the higher posts by creating supernumerary posts to the extent as may be necessary. Therefore it so happened that some Assistants who were promoted earlier on the basis of the earlier list, continued in their promoted posts even though on revised seniority they came lower. The Table above also shows that all the promotions referred to belong to the period 1972 to 1977 i.e. prior to the issue of the revised seniority list and such promotees were protected from reversion by the order of the Hon'ble Supreme Court even after revision of seniority. It also appears from the above Table that the earlier promotions not according to the length of service as Assistant. Since R.S. Shiman, who was appointed as Assistant on 21.2.64 was promoted as Section Officer from 20th June 1972 whereas Shri G.K. Sharma, who was Assistant since 4.1.60 was promoted as Section Officer from 22.6.76. These distortions had taken place in view of the earlier seniority list which was quashed. The seniority list was,

no doubt, revised according to the length of continuous officiation in terms of orders dated 21st November, 1986 in T.A. No. 129/85. But as earlier observed, those even though junior, according to the revised seniority list and were promoted from earlier dates were protected from reversion by orders of the Hon'ble Supreme Court.

10. After revision of seniority, the orders issued by the respondents for promotion was dated 12th May, 1988. The date of promotion of the applicant was 6.9.80. 36 persons senior to him were also given the date of 6.9.80. Therefore, not to speak of a junior even his seniors numbering 36 got the same date of promotion as that of the applicant. His juniors upto S.No. 103 were also given the same date and thereafter subsequent dates of promotion were indicated. In fact, if we carry arguments of the Learned Counsel for the respondents a little further one can also say that Gulzari Lal, who was Assistant on 1.6.63 and promoted from 22.6.76 should also be promoted under similar arguments from 16.8.73 if not earlier since D.S. Bhatia according to the Table was his next junior. This will result in unsettling the settled issue and creating considerable complications. In any case as mentioned earlier even seniors of the applicant not to speak of a junior were promoted from 6.9.80 and the application is bereft of any merit and is, therefore, dismissed with no orders as to costs.

I.P. Gupta
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Member (A) 5/8/92

Ram Pal Singh
Ram Pal Singh
Vice-Chairman (J)