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CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH.

O.A. NO. 1934/89

New Delhi this the 26th day of April, 1994.

Shri Justice V.S. Malimath, Chairman.

Shri P.T. Thiruvengadam, Member(A).

1. Ashok Kumar,  
S/o Shri Bishan Singh,  
R/o 464, Gali Arya Samaj,  
Najafgarh,  
New Delhi.
  2. C.M. Dhingra,  
S/o late Shri G.R. Dhingra,  
2293, Raja Park,  
Shakurbasti,  
Delhi.
  3. M.P. Sharma,  
S/o Shri Raghu Nath Singh,  
A-15, Brij Vihar,  
Ghaziabad.
  4. N.K. Kohli,  
S/o Shri S.R. Kohli,  
R/o 93-A, Indra Nagar,  
Delhi.
  5. Mukesh Kumar,  
S/o Shri R.S. Srivastava,  
H.No. 3091, Gali Sushila,  
Sita Ram Bazar,  
Delhi-6.
  6. Dhan Raj Shah,  
S/o late Shri P.M. Kuppa Shah,  
370, Old Post Office Street,  
Chotta Bazar,  
Shahdra.
  7. Ramesh Chander,  
S/o Shri Bhagwan Dass,  
R/o 819, Najafgarh,  
New Delhi.
  8. Ravinder Wasan,  
S/o Shri C.L. Wasan,  
R/o 9/8, West Patel Nagar,  
New Delhi.
  9. Pradeep Baijal,  
S/o Shri Onkar Parsad Baijal,  
F-5/13, Model Town,  
Delhi-9.
  10. J.K. Kaushal,  
S/o late Shri D.R. Kaushal,  
J-691, Mandir Marg,  
New Delhi.
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11. D.P. Singh,  
S/o Shri Sarwan Singh,  
R/o C-2, Golden Park,  
Delhi-51.
12. Kapil Dev Trehan,  
S/o Shri Mool Raj Trehan,  
R/o 1/11088, Subash Park,  
Naveen Shahdara,  
Delhi.
13. K.S. Sharma,  
S/o Shri Radhey Lal Sharma,  
71, Saroj Nagar, Azad Pur,  
Delhi-33.
14. S.S. Gupta,  
S/o Shri K.C. Gupta,  
A-3/91, Dilshad Garden,  
Delhi.
15. P.S. Pokhriyal,  
S/o Shri B.D. Pokhriyal,  
Sector 7/1218, R.K. Puram,  
New Delhi.
16. Ashok Kumar,  
S/o Shri Hari Chand,  
457, Gali Sheesh Mahal,  
Bazar Sita Ram,  
Delhi.
17. Subhash Chander,  
S/o Shri Duli Chand,  
824-E, Arjun Nagar,  
Kotla Mubarik Pur,  
New Delhi.
18. Amarjit Lal,  
S/o Shri Munshi Ram Grover,  
M-161, Guru Harkishan Nagar,  
New Delhi. ...Petitioners.

By Advocate Shri R.K. Kamal.

Versus

1. Union of India through  
Lt. Governor,  
Delhi Union Territory,  
Raj Niwas,  
Delhi.
2. The Chief Secretary,  
Delhi Administration,  
Delhi. ...Respondents.

By Advocate Mrs Avnish Ahlawat.

ORDER (ORAL)

Shri Justice V.S. Malimath.

The grievance of the petitioners in this case  
is in the realm of preparation of the seniority.

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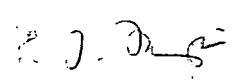
list; The petitioners were directly recruited in the Delhi Administration Subordinate Service (for short 'DASS') in the direct recruitment quota in pursuance of the examination held for that purpose in the year 1973. A panel of 202 persons was prepared in 1974 out of which 94 persons were appointed between March, 1974 and February, 1975. Thereafter, 19 persons were promoted in the quota required to be filled on the principle of seniority-cum-fitness followed by promotion of 38 persons in the quota required to be filled on the basis of the result of Limited Departmental Competitive Examination. It is thereafter that the petitioners who were in 1974 panel came to be appointed between 1976 and 1977. A seniority list as per Annexure A-1 has been prepared and certain ranks have been assigned in the said seniority list. It is in this background that the petitioners came up with this application in which their first prayer is for striking down the amendment to DASS Rules brought about by notification dated 19.5.1989, on the ground that the said amendment is discriminatory and violative of Articles 14 and 16 of the Constitution. The second prayer is for quashing the final seniority list, Annexure A-I. The third prayer is to refix the seniority of the petitioners placing them immediately below their batchmates who were appointed between March 74 and February, 75. So far as the challenge to amendment to the DASS Rules, 1967 effected in 1989 is concerned, the same was not rightly pressed as this Tribunal has upheld the validity of the said amendment in more than one decision, firstly, in


O.A. No. 1407/92 and connected case between Suraj Mal and Ors. Vs. Union of India & Ors and secondly, in O.A. No. 60/88 and connected cases between P.C. Bhardwaj & Ors. Vs. Lt. Governor of Delhi & Ors. Hence, what we are left with is a challenge to the seniority list and the principle to be followed in the matter of fixation of seniority of the petitioners.

2. So far as the principle regulating fixation of seniority is concerned, Rule 26 came to be substituted by the amendment the validity of which has already been upheld by the Tribunal. The said statutory provision says that so far as DASS Grade-II category is concerned, the inter-se seniority shall be determined taking into account the respective dates of nomination. The impugned seniority list, Annexure A-I, has been prepared in accordance with Rule 26, as amended, in the sense that so far as DASS Grade-II category is concerned, they have been assigned ranking on the basis of the dates of their nomination. It, therefore, follows that the seniority list cannot be faulted as it has been prepared in accordance with the relevant Rule 26 governing seniority. It is, however, contended by Shri Kamal, learned counsel for the petitioner that there is still some subsisting grievance of the petitioners in regard to <sup>the dates of</sup> their nomination. He submitted that whereas their batchmates were nominated in one batch of 94 persons, the petitioners have been nominated after two batches of promotions were effected. This, according to the learned counsel for the petitioners, is discriminatory. It was urged that all those who were included in the panel prepared in the year 1974 should have been placed above

the promotees and that there was no justification for nomination of 94 persons in the first instance and followed by nomination of the petitioners and others after effecting promotions in the meanwhile. At the outset, it is necessary to say that so far as the grievance of the petitioners in regard to the delay or postponement of nomination of the petitioners is concerned, the cause of action accrued in favour of the petitioners sometime in the year 1975 when they were <sup>not</sup> nominated along with their batchmates. At any rate, they could have made a grievance about it when they were nominated between 1976 & 1977 and asserted <sup>that they should have been nominated</sup> along with their batchmates the last of whom was nominated in the year 1975. The cause of action thus having accrued more than 15 years before the establishment of the Tribunal, we have no jurisdiction to entertain the grievance of the petitioners regarding discrimination in regard to assigning of the dates of nomination to the petitioners. That being the position, this contention cannot be examined by us.

3. For the reasons stated above, this application fails and is dismissed. No costs.

  
(P.T. Thiruvengadam)  
Member(A)

  
(V.S. Malimath)  
Chairman