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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI.

O.A.No.137 of 1988 DATE OF DECISION: 6.8.93.

Surender Mohan GuptaPetitioner.

Versus

Union of India & others.....Respondents.

CORAM:

Hon'ble Mr. Justice V.S. Malimath, Chairman.

Hon'ble Mr. S.R. Adige, Member(A)

Petitioner Shri Surender Mohan Gupta, in person.

For the respondents: Shri. P.H. Ramchandani, counsel.

JUDGMENT(ORAL)

(By Hon'ble Mr. Justice V.S. Malimath, Chairman)

The petitioner Shri Surender Mohan Gupta started his career in the Armed Forces Headquarters Civil Service as an Assistant w.e.f. 4.1.78 on his being selected by the Union Public Service Commission. According to him, he was promoted on 14.10.82 as Assistant Civilian Staff Officer in pursuance of the directions made by the Departmental Promotion Committee. In the seniority list prepared earlier he was given 31.1.84 as the deemed date of promotion. Subsequently the said list has been revised and he has been accorded 22.4.83 as the deemed date of promotion. In his application filed in 1988, the petitioner has prayed for a direction to review the panels issued vide reviewed panels from 1977-78 to 1986-87 dated 2.11.87 from 1980-81 year onwards and again for further review on the basis of continuous officiation. He ^{has} further prayed that the principle of seniority for fixing the seniority in the grade of ACSO between directly recruited ACSOs and the departmental promotees ACSOs should be decided, and the promotions to the grade of CSO should be made after revising the seniority list of ACSOs on the basis of length of service in the grade. This relief

is claimed by the petitioner against the Union of India through Secretary, Ministry of Defence and the Chief Administrative Officer and Joint Secretary, Ministry of Defence. We are informed that the designations of these respondents have since undergone change. The first respondent is known as Secretary and the second respondent is now described as Joint Secretary(Training) and Chief Administrative Officer.

2. In view of the subsequent events, we will have to take note of the same in the matter of examining the claim of the petitioner in this case. Suffice it to advert to the judgment of the Principal Bench of the Tribunal rendered in T.A. No. 356 of 1985 decided on 20.11.92 between M.G. Bansal & others Vs. Union of India & others. In the said judgment exhaustive directions have been issued to the respondents in the matter of preparing seniority list comprising of the direct recruits and the promotees to the cadre of Assistant Civilian Staff Officer. There are other directions as well. The principle grievance of the petitioner is in the matter of his being accorded a proper rank in the seniority list of the Assistant Civilian Staff Officer. In pursuance of the directions, issued by the Tribunal in Bansal's case, it was brought to our notice that provisional seniority list has since been circulated on 21.6.93. The said seniority list is provisional in character and there is a direction to circulate the same to all the sections concerned and to bring to the notice of the concerned authority the errors and discrepancies, if any, so that they could be examined and necessary correction incorporated. In the

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said provisional seniority list, the name of the petitioner is at S.No.91 and the deemed date of promotion to the cadre of Assistant Civilian Staff Officer is given as 22.4.83. The petitioner is not happy with the rank assigned to him as he feels that he is entitled to much higher rank in the said provisional list. According to him, he has been pushed down in the seniority list making a wrong assumption that the petitioner was officiating on the promotional post of Assistant Civilian Staff Officer not in a regular or substantive vacancy but in a vacancy purely temporary in character. This mistake of fact has led to the according of wrong rank in the seniority list to the petitioner. When we asked the petitioner, who argued his case personally, as to whether he has any grievance against the direction issued by the Tribunal in the Bansal's case, he made it clear that he has no grievance in regard to those directions and that his real grievance is in regard to the steps taken in wrongly implementing those directions by relying upon the facts which are not true. If it was the contention of the petitioner that he is aggrieved by the directions issued by the Tribunal in the Bansal's case, we would not be entitled to issue a direction at the instance of the petitioner contrary to one issued by the Tribunal in the Bansal's case for, it is well settled principle of law that no conflicting direction can be given in two different cases by the same Tribunal to the same parties. In such circumstances we would have left the petitioner to work out his right in appropriate proceeding. That is not necessary having regard to the fair and reasonable stand taken by the petitioner that he has no grievance in regard to the directions issued by the Tribunal in Bansal's case. As we are satisfied that the real grievance of the petitioner is in regard to

the proper implementation of the directions given in the Bansal's case, it is proper that we relegate the petitioner to work out his right in accordance with law in this behalf. As the provisional seniority list has been prepared in pursuance to the directions in the Bansal's case giving an opportunity to the persons affected by the same to submit their objections, it is obvious that the objections received by all the parties have to be examined by the authority and a final seniority list has to be drawn after considering all the representations received in that behalf. If any party is aggrieved by the final seniority list, it is open to such party to work out his rights in accordance with law. As in this case, the petitioner seems to have a grievance in regard to incorrect implementation of the judgment of the Tribunal in the Bansal's case on the ground that wrong assumption has been made in regard to the nature of the vacancy in which the petitioner was promoted, it is just and proper that we should reserve liberty to the petitioner if he has already not filed any objection because of pendency of these proceedings to file his objections to the provisional seniority list. He will do so within the time granted by us. It would be the duty of the respondents to take a decision on the said representation before finalising the seniority list. If the petitioner is still aggrieved by the final decision to be taken, we must reserve liberty to him to take such measures as are open to him in accordance with law. It is enough, therefore, to dispose of this case by issuing

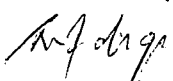
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appropriate directions on these lines.

3. For the reasons stated above having regard to the subsequent events that have taken place and which have been adverted to above, this application stands disposed of with the following directions:-

If the petitioner files objections to the seniority provisional/list dated 21.6.93 of the Assistant Civilian Staff Officers of Armed Force Headquarters Civil Services within two weeks from this date, the respondents shall examine the same and take a decision on the same before publishing the final seniority list which shall be done with utmost expedition. If the grievance of the petitioner still subsists after the final seniority list is published, we make it clear that the petitioner is at liberty to work out his rights in accordance with law.

4. Parties shall bear their respective costs.


(S.R.ADIGE)
MEMBER(A)


(V.S.MALIMATH)
CHAIRMAN.

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