

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 1463/88
T.A. No.

199

DATE OF DECISION 11.10.1993

<u>Shri Chhel Bihari Lal</u>	Petitioner
<u>Shri B. S. Mainee</u>	Advocate for the Petitioner(s)
<u>Union of India</u>	Respondent
<u>None</u>	Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. J.P. Sharma, Member (Judl.)

The Hon'ble Mr. B.K. Singh, Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal?

(ORAL) JUDGEMENT

The applicant has been a direct recruit to the post of a Clerk w.e.f. 4.9.1963 in the direct recruitment quota. He has ~~given~~ come with a grievance that in the Seniority List issued in September, 1987 (Annexure A-1), the name of the applicant has been shown as serial No. 29. The names of respondents 3, 4, 5 and 6, are at serial Nos. 21, 22, 23, 26 and 27 respectively. The name of respondent No. 7 is at serial No. 52 on the same list. The grievance highlighted by the applicant is that the respondents 3 to 7 were promoted from the promotion quota of Class IV

subsequent to the joining of the applicant in the years 1965, 1967 and 1968 and as such, showing them senior to the applicant, is against the seniority rules followed by the respondents in fixing the seniority which should be from the date of joining of the direct recruit and that of the promotee, from the date of promotion. The contention of the applicant also is that there was restructuring in respect of the ministerial staff from 1.1.1979 and followed by another restructuring w.e.f. 1.1.1984. The applicant had made representations to the respondents stating that he was promoted as U.D.C. w.e.f. 1.1.1979 on the basis of the restructuring and as Head Clerk w.e.f. 1.1.1984, but he has not been promoted to the next post of Assistant Supdt. on ad hoc basis, while the persons junior to him, who are also promoted on the same date to the post of UDC and Head Clerk, except respondent No.7, were promoted as UDC in May, 1980, have been given higher promotion of Assistant Supdt. on different dates, i.e., M.K. Chopra and Rajan Lal, respondents 4 and 3, respectively, w.e.f. February, 1988, while the applicant has been ignored. The other grievance of the applicant was that the respondents have called for a selection to the post of Assistant Supdt. some time in July, 1988, called for a written test in August, 1988 followed by viva test in September, 1988.

The name of the applicant appears at serial No.16 of the eligibility list and the names of the respondents 3 to 6 appear above him.

2. In this application, the applicant has prayed for the grant of the reliefs that the seniority list of September, 1987 be revised, showing the applicant senior to respondents 3 to 7, and the selection proceedings be held by the circular dated July, 1988, be quashed and be held only after a fresh list of candidates is issued on the basis of the revised seniority list. It was also prayed that the applicant be given promotion as ^{Asstt.} Supdt. w.e.f. 1.1.1984 as has been granted to respondent No.3, Om Prakash. It is further prayed that the applicant be ordered to be paid the arrears of pay from the date his juniors have been promoted as Assistant Supdt. on ad hoc basis.

3. The case was called for hearing today and the respondents are not present. The learned counsel for the applicant did not press for the grant of reliefs of quashing the selection of 6th July, 1988 of giving the applicant the promotion as Assistant Supdt. w.e.f. 1.1.1984 as was given to respondent No.7. In short, he has only pressed for relief No.1 of the revision of the seniority list and the consequential relief of being promoted on ad hoc basis with effect from the date when the immediate junior to the

applicant was promoted with all arrears of pay, etc.

4. The respondents contested this application through the Counsel, Shri O.N. Moolri, and since this is an old matter, we consider ~~them~~ to decide the same on the basis of the counter filed by the respondents along with the Annexures annexed with it.

5. Annexure R-1 to the counter goes to show that after the present application was filed in August, 1988 by the applicant by the aforesaid office order No.727-E/4/495/P.IV dated 25.10.1988, the seniority list of Head Clerk has been revised and the name of the applicant, Chhel Bihari Lal, has been placed as item No.20-A instead of 29, just below Shri Gurcharan Singh at item No.20 and above Shri Rajan Lal, respondent No.3 at serial No.21 of the seniority list.

6. In view of the above, the relief claimed by the applicant for revision of the seniority list, stands allowed and the further relief claimed by him regarding Respondent No.7, whose name appears at serial No.52 of the seniority list, has not been pressed and in view of this, regarding respondent No.7, the claim of the applicant is disallowed. Otherwise also, the respondents in their counter, have stated that Om Prakash, respondent No.7, was given his seniority from the date he was officiating as a Storekeeper w.e.f. January, 1960 and promoted as Senior

Clerk w.e.f. 6.7.1977, as per the decision of the competent authority and his seniority was revised by the competent authority. In view of the revision of the seniority of Shri Om Prakash, he was given the next promotion of Assistant Supdt. w.e.f. 1.1.1984 and that has not been assailed by the applicant even earlier to the filing of this application. But since this relief is not being pressed now, it is not necessary to probe and discuss the issue any further.

7. The only issue that survives is that after the revision of the seniority list of the applicant from serial No. 29 to serial No. 20-A, he has to be given the benefit of ad hoc promotion as Assistant Supdt. if he, at the relevant time, was otherwise fit, according to the rules of ad hoc promotion extant at that time. Since the respondents have not appeared at the time of hearing and the learned counsel for the applicant also is not abreast with the latest developments, vis-a-vis, the applicant and there is no document on record to help in the matter, we refrain from touching the point of selection and confine this judgement only to the issue of benefit to be given to the applicant on the basis of the revised seniority list.

8. Since respondent Nos. 3, 4, i.e., Rajan Lal and Chopra, were given ad hoc promotion, the applicant has also to be given that promotion if otherwise found fit from the date Shri Rajan Lal, Respondent No. 3, was given purely on an ad hoc basis with all benefits of pay and allowances till the time Shri Rajan Lal was regularised or reverted to his substantive post, according to rules.

9. In the above facts and circumstances, the application is disposed of with the direction that the relief at para. 8.1 regarding revision of the seniority list as has been already allowed by the respondents by the order dated 25.10.1988 and in pursuance thereof, the applicant shall be entitled to be considered for the benefit of ad hoc promotion with effect from the date Shri Rajan Lal was promoted as Assistant Supdt. till the time a post is available on the principle of 'last come, first go' and continue in the said post as long as Shri Rajan Lal continues, except when he is regularised or reverted. Regarding the other reliefs of selection, the applicant has not pressed the same and is disallowed, excepting that of the selection to the post of Assistant Supdt. for which the liberty is given to the applicant to assail any grievance which accrued to him subsequent to the filing of this application. No costs.

(B. K. Singh)
Member (A)

J. P. Sharma
Member (J)