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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 1688/88
T.A. No.

199

DATE OF DECISION 31.12.1990.


<u>Shri Hori Lal</u>	Petitioner
<u>In Person</u>	Advocate for the Petitioner(s)
Versus	
<u>Union of India & Others.</u>	Respondent
<u>Shri P.H. Ramchandani, Sr.</u>	Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. Justice Amitav Banerji, Chairman

The Hon'ble Mr. I.K. Rasgotra, Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ? *yes*
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 ? *-*


(AMITAV BANERJI)
CHAIRMAN
31.12.1990.

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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

REGN.NO. O.A. 1688/88.

DATE OF DECISION: 31-12-1990

Shri Hori Lal.

...Applicant.

Versus.

Union of India & Ors.

...Respondents.

CORAM: THE HON'BLE MR. JUSTICE AMITAV BANERJI, CHAIRMAN.
THE HON'BLE MR. I.K. RASGOTRA, MEMBER(A).

For the Applicant.

...in person.

For the Respondents.

...Shri P.H. Ramchandar
Sr. Counsel.

(Judgement of the Bench delivered by
Hon'ble Mr. I.K. Rasgotra, Member(A))

The issue for our consideration raised in this Application is whether the inter-se seniority of one group of persons can continue to remain unchanged when the seniority in the feeder grade undergoes revision successively consequent to the orders/directions of the Court.

The applicant, Shri Hori Lal, has filed this Application under Section 19 of the Administrative Tribunals Act challenging the promotion of 14 Civilian Staff Officers (C.S.Os) to the grade of Senior Civilian Staff Officers (S.C.S.Os) vide Order No. 3791/85-86/CAO(P-1) dated 17.8.1988, which includes two of his juniors who have been impleaded as respondents 5 and 6 in this Application. Shri Hori Lal joined the Armed Forces Headquarters (AFHQ), Ministry of Defence as Lower Division Clerk. After passing through the grade of Upper Division Clerk, he was in his turn promoted to the grade of Assistant on 18.10.1972. He is presently working as Civilian Staff Officer (Group'A') in the scale of Rs.3000-4500 in AFHQ under the administrative control

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of the Chief Administrative Officer and Joint Secretary, Ministry of Defence. He is a member of the AFHQ Civil Service, which is governed by the AFHQ Rules, 1968. According to the recruitment rules, 1968, the recruitment to the grade of Assistant Non-Gazetted Group 'B' Ministerial which feeds the promotee quota in the grade of ACSOs Gazetted Group 'B' is made from two sources (1) Direct (2) By way of promotion from Upper Division Clerk on the basis of seniority-cum-fitness subject to the rejection of unfit. The recruitment to the post of ACSO Group 'B' Gazetted besides the feeder cadre of Assistants on merit-cum-seniority basis subject to the rejection of unfit is also made directly. The promotion to the post of CSCs and SCSO Group 'A' is made from the grade of ACSOs and CSOs respectively on the basis of selection by the D.P.C. in consultation with the Union Public Service Commission (U.P.S.C.). There has been perpetual struggle between the Direct recruits and the promotees in the various services in the High Courts and the Hon'ble Supreme Court and later in the Tribunal regarding the fixation of seniority. The AFHQ Civil Service is no exception. The seniority list of the Assistants of Direct Recruits and promotees drawn up on 4.6.1977 was the subject matter of litigation before the High Court of Delhi in Writ Petition No. 2/78 A.P. Joshi & Ors. Vs. U.O.I. & Ors. While this writ petition was pending, the other group of promotees Assistants filed writ petitions No. 15346-49 of 1984 N.K. Dhawan & Ors. Vs. U.O.I. & Ors. in the Supreme Court. The Hon'ble Supreme Court struck down the 1977 seniority list on

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25.4.1985 and directed the department to re-draw the same according to the relevant rules. The matter then came up before the Tribunal through O.A. No. 41/1986 K.N. Mishra & Ors. Vs. U.O.I. & Ors. (ATR 1986(2)CAT P-270). The Tribunal in its judgement delivered on 28.8.1986 directed the respondents 'to draw up a complete seniority list in the light of this judgement including therein all the temporary, permanent and officiating assistants working in substantive vacancies giving them the benefit of continuous officiation and also to frame a fresh panel of promotion post on that seniority list within three months of the receipt of the order'. The respondents accordingly prepared the fresh seniority list and notified the same on 12.9.1986. This seniority list was again challenged by some of the direct recruit Assistants in an SLP filed in the Supreme Court. The said SLP was finally disposed of by the Supreme Court on 17.2.1987 with a direction that the seniority of the direct recruit assistants amongst themselves would be determined in the order of ranking obtained in the examination based on which they were appointed without affecting the seniority of the promotees in any manner which has to be determined on the basis of continuous officiation in the grade. The writ petition No. 2/78 filed by A.P. Joshi & Ors. Vs. U.O.I. & Ors. was disposed of by the Delhi High Court on 24.9.1985 with the directions to prepare the seniority list in accordance with the directions of the Supreme Court in the case of N.K. Dhawan & Ors. Vs. U.O.I (W.P. No. 15346-49/84). The respondents accordingly prepared a revised seniority list of assistants and notified it on 8.5.1987. According to the directions of Delhi High Court, all promotions post on the seniority list dated 4.6.1987

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were subject to the outcome of the decision in the case pending in the High Court.(Emphasis supplied). The respondents reviewed the panel of ACSOs for the year 1977-78 to 1986-87 and notified the result on 2.11.1987. The panel for promotion to the grade of C.S.O. has already been reviewed by the U.P.S.C. for 1981-82 but further review of the panel for the years 1982-83 and 1983-84 has been held in abeyance as the seniority list dated 8.5.1987, which was challenged by some of the direct recruit assistants in O.A. No. 1121/87. K.N. Mishra & Ors. Vs. U.O.I. & Ors. was quashed by the Tribunal vide its judgement dated 14.9.1988. The Tribunal directed that the seniority list should be re-drawn within three months from the date of receipt of this order maintaining inter-se seniority of the direct recruits in the order of ranking obtained by them in the examination on the basis of which they joined and integrate them with promotees on the basis of an earliest date of joining by any direct recruit of a particular batch and not with reference to the date of joining of the senior most direct recruit of the said batch as has been taken by the respondents in the impugned seniority list. It is clear from the above that the inter-se seniority of the direct recruit has to be maintained in the order of their ranking obtained in the respective examination and the seniority regulated for integration with the promotees on the basis of the earliest date of joining by any direct recruit of a particular batch and not with reference to the date of joining of the senior-most direct recruit of the said batch. This judgement does not affect the promotee assistants who would continue to be entitled to the benefit of seniority from the date they have continuously officiated.

The above are the undisputed facts of the case.

We have heard the applicant who appeared in person and Shri P.H. Ramchandani, Senior Counsel for the respondents. When the matter was heard on 18.12.1990, the Bench tried to ascertain from the applicant the precise nature of his grievance as he can have no grievance against the adjustment of seniority as per the orders given by the Tribunal on 14.9.88 in the light of the judgement of the Hon'ble Supreme Court in the case of K.N. Mishra(Supra) on 28.8.1988 which would not only result in redrawing the seniority of Assistants but also carrying out review DPCs for the persons who are officiating on ad hoc basis in the grade of ACSO, CSO and SCSO.

Shri Hori Lal, the applicant, submitted a chart giving the revised ACSOs promotion panels for the years 1977-78, 1978-79 and 1979-80.

The applicant, however, could not provide any satisfactory answer to the query of the Bench. His only contention is that none of the judgements of the Hon'ble Supreme Court, High Court or the Central Administrative Tribunal gives any direction for change of inter-se seniority of the departmental promotees either in the grade of ACSO or CSO, which was fixed by the competent DPC. In effect he intends that following the redrawing of seniority of Assistants, the review DPC cannot change the inter-se seniority of ACSO, CSO in the revised panel in respect of promotees. To clarify the position we are giving below a table indicating yearwise panels drawn originally and later on the basis of review seniority of the applicant and two of his juniors

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as per his claim:-


	Seniority List 1977			Seniority list of 8.5.1987.	
	Asst.	ACSO	CSO	ACSO	CSO
Hori Lal	18.10.72	78-79	82-83	78-79	82-83
Vijay Chaudhry	01.3.72	78-79	83-84	77-78	81-82
S.K. Paul	25.7.72	78-79	83-84	77-78	81-82


It would be seen from the above table that Sarvashri Hori Lal, Vijay Chaudhry and S.K. Paul were selected as ACSO in the panel of 1978-79 as per the original seniority list of 1977. On the same basis, they were on the select list of CSOs for the years 1982-83 and 1983-84 respectively. Shri Hori Lal gained the seniority as CSO on the basis of the D.P.C. convened on the basis of the original seniority and was placed in the select list of CSO for 82-83 while Sarvashri Vijay Chaudhary and S.K. Paul were placed in the select list of 1983-84.

In review DPC, Shri Hori Lal has retained his position in the panel of ACSOs in the year 78-79 while Sarvashri Vijay Chaudhary and S.K. Paul have been placed in the select list for the year 77-78, having gained in seniority by virtue of the revision of the seniority list in accordance with the directions of the court. Similarly, Shri Hori Lal, retains his position as CSOs in the panel of 82-83, Sarvashri Vijay Chaudhary and S.K. Paul are expected to be placed in the panel of CSOs for 81-82. This would happen when the review DPC is held in accordance with the redrawn seniority list in terms of the judgement of the Tribunal dated 14.9.1988. In these circumstances, it is not feasible to maintain inter-se seniority of the promotees in the select list of ACSO and CSO as per original DPCs held on the basis of 1977 seniority list of Assistants. The review DPCs are necessary corrolaries of the adjustment/revision of basic seniority as Assistant in the case of promotees in accordance with the directions and the principles

enunciated by the Hon'ble Supreme Court/Central Administrative Tribunal. Shri Hori Lal's contention that among the promotees once he had been placed in the panel of CSOs in the year 1982-83 and Sarvashri Vijay Chaudhry and S.K. Paul placed in the panel for the year 83-84, the inter-se seniority among them as per the respective panels becomes irrevocable, is not rational and consequently not acceptable, being in contravention of the law laid down by the Hon'ble Supreme Court/Tribunal. The plea of Shri Hori Lal cannot be sustained as if the basic seniority of Assistants is revised, its logical consequence by way of review DPC of the panel of ACSO, CSO and SCSO cannot be avoided.

In the result, the Application fails and is dismissed with no order as to costs.


(I.K. RASGOTRA)
MEMBER 31/12/90

 31/12/90
(AMITAV BANERJI)
CHAIRMAN